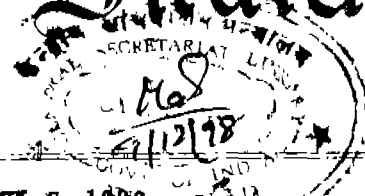




भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
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सं० 35]
No. 35]

नई दिल्ली, शनिवार, अगस्त 29, 1998/भाद्र 7, 1920
NEW DELHI, SATURDAY, AUGUST 29, 1998/BHADRA 7, 1920

इस भाग में भिन्न पृष्ठ संख्या भी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 6 अगस्त, 1998

2. गजेन्द्र सिंह यादव
3. अशोक कुमार

[सं. 225/1/98-ए.वी.बी. II]
हरि सिंह, अवसर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSION

(Department of Personnel & Training)

New Delhi, the 6th August, 1998

का.भा. 1673.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय अन्वेषण ब्यूरो के निम्नलिखित अभियोजन अधिकारियों को विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापना (के.अ. ब्यूरो) द्वारा सस्थित मामलों तथा किसी राज्य अथवा संघ राज्य क्षेत्र जिस पर पूर्वोक्त धारा के उपबंध लागू होते हैं, में विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों, पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

सर्वश्री

1. कररी नरसिम्हा वर्मा

S.O. 1673.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints the following prosecuting officers of the Central Bureau of Investigations as Special Public Prosecutors for the conduct of cases instituted by Delhi Special Police Establishment (CBI) in the trial courts and appeals/revisions or other matters arising out of these cases in revisional or appellate courts established by Law in any State or Union Territory to which the provision of the aforesaid section apply.

S/Shri

(1) Karri Narasimha Varma

(2) Gajendra Singh Yadav

(3) Ashok Kumar

[No. 225/1/98-AVD.II]
HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय

मदुरै, 6 अगस्त, 1998

सं. 5/98-सीमा शुल्क (एन.टी.)

का.आ. 1674—सीमा शुल्क अधिनियम 1962, धारा, 9 जो भारत सरकार, वित्त मंत्रालय, राजस्व विभाग नई दिल्ली के अधिसूचना सं. 33/94-सीमा शुल्क (एन.टी.) दिनांक 1-7-94 के साथ पठित द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं एतद्वारा तमिलनाडु राज्य के दिण्डीगुल जिला, पलनी तालुका के "तालैयुतु गांव" को सीमा शुल्क अधिनियम, 1962 (1962 का 52) के अधीन शत प्रतिशत निर्यातान्मुख उपक्रम स्थापित करने हेतु भांडागार घोषित करना हूँ।

[फाईल सं. सं. IV/16/127/98-टी 1]

टी.आर. राधाकृष्णन, आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER OF CENTRAL
EXCISE

Madurai, the 6th August, 1998

No. 5/98-CUSTOMS (NT)

S.O. 1674.—In exercise of the powers conferred on me under Section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT) dated 1-7-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare "THALAIYUTHU Village", Palani Taluk, Dindigul District in the State of Tamilnadu to be a warehousing station under the Customs Act, 1962 (52 of 1962) for the purpose of seeing up of 100% Export Oriented Undertaking.

[File C. No IV/16/127/98-T.I.]

T. R. RADHAKRISHNAN, Commissioner

आदेश

नई दिल्ली, 17 अगस्त, 1998

का.आ. 1675—चुकि संयुक्त सचिव भारत सरकार जिनको स्वापक औषध एवं मनः प्रभावोपकारी अधिनियम, 1988 के अवैध व्यापार की रोकथाम के लिए खंड 3 के उपखंड (1) के अधीन विशेष रूप से शक्ति प्राप्त है, ने उक्त उपखंड के अंतर्गत दिनांक 13-1-98 को फा. सं. 801/1/98-पिट एन डी पी एस के अधीन आदेश जारी करके निदेश दिया था कि श्री मलीम खान सुपुत्र श्री पीरशेदखान, निवासी गांव अखेपुर तह. प्रताप गढ़, जिला चित्तौड़गढ़ (राजस्थान) को स्वापक औषधों के स्वामित्व, छिपाने, परिवहन

तथा अवैध व्यापार में दूर रखने के लिए केन्द्रीय कारागार इन्दौर (म.प्र.) में हिरासत में रखा जाए।

2. चुकि केन्द्रीय सरकार यह समझती है कि उपर्युक्त व्यक्ति फरार है या स्वयं को छिपा रहा है जिसके कारण आदेश का पालन नहीं हो सका है।

3. अब उक्त अधिनियम के खंड 8 के उपखण्ड (1) के क्लॉज (ख) में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार सरकारी राजपत्र में इस आदेश के प्रकाशन के दस दिन के भीतर उपर्युक्त व्यक्ति को अवैध (कार्यकारी) केन्द्रीय स्वापक ब्यूरो, स्वापक उपयुक्त कार्यालय, नीमच (मध्य प्रदेश) के समक्ष प्रस्तुत होने का निदेश देती है।

[फा. सं. 801/1/98-पिट एन. डी पी एस]

जे. एन. साहनी, अवसर सचिव

ORDER

New Delhi, the 17th August, 1998

S.O. 1675.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 issued order F. No. 801/1/98-PITNDPS dated 13-1-98 under the said sub-section directing that Shri Saleem Khan S/o Shri Pirshed Khan, resident of village-Akhepur, Teh. Pratapgarh, Distt. Chittorgarh (Rajasthan) be detained and kept in custody in the Central Jail, Indore (M.P.) with a view to preventing him from engaging in the possession, concealment, transportation and illicit trafficking of narcotic drugs.

2. Whereas the Central Government has reason to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of powers conferred by clause (b) of sub-section (1) of Section 8 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Superintendent (Executive) Central Bureau of Narcotics, Office of the Deputy Narcotics Commissioner, Neemuch (Madhya Pradesh) within 10 days of the publication of this order in the Official Gazette.

[F. No. 801/1/98-PITNDP]

I. L. SAWLNEY, Under Secy.

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 20 अगस्त, 1998

का.आ. 1676—सर्वसाधारण की सूचना के लिए यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा मैं. उड़ीसा रूलज हाऊसिंग एण्ड डेवलपमेंट कार्पो. लि. भुवनेश्वर को कर निर्धारण वर्ष 1997-98, 1998-99 और 1999-2000 के लिए आयकर अधिनियम, 1961 की धारा 36 (i) (viii) के प्रयोजनार्थ अनुमोदित किया जाता है।

यह अनुमोदन इस शर्त पर किया जाता है कि कम्पनी आयकर अधिनियम 1961 की धारा 36(i) के प्रावधानों के अनुरूप होगी तथा उनका अनुपालन करेगी।

[अधिसूचना सं. 10672/फा. सं. 204/32/94-आयकर नि II]

मालती आर. श्रीधरन, अवसर सचिव

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 20th August, 1998

S.O. 1676.—It is notified for general information that M/s. Orissa Rural Housing & Development Corp. Ltd., Bhubaneswar has been approved by the Central Government for the purposes of Section 36(i)(viii) of the Income Tax Act, 1961, for the assessment years 1997-98, 1998-99 & 1999-2000.

The approval is subject to the condition that the company will conform to and comply with the provisions of section 36(1)(viii) of the Income-tax Act, 1961.

[Notification No. 10672/F. No. 204/32/94 ITA-II]
MALATHI R. SRIDHARAN, Under Secy.

कार्यालय आयुक्त, केन्द्रीय उत्पाद शुल्क आयुक्तालय,

जयपुर, 12 अगस्त, 1998

सीमा शुल्क

क्र. सं. 1/सी. शु. (एन.टी.)/98

का.आ. 1677.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के खण्ड (ए) के तहत भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली, की अधिसूचना संख्या 33/94 सीमा शुल्क (एन.टी.) दिनांक प्रथम जुलाई, 1994 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, मै. बी. शर्मा आयुक्त, केन्द्रीय उत्पाद शुल्क जयपुर प्रथम एतद्द्वारा शत प्रतिशत ई.प्रो.यू. स्थापित करने के उद्देश्य से सीमा शुल्क अधिनियम, 1962 की धारा 9 के अंतर्गत राजस्थान राज्य के झुंझुनू जिले में स्थित मुकुन्दगढ़ को भण्डागार स्टेशन (वेयर हाऊसिंग स्टेशन) घोषित करता हूँ।

[फा.सं. V(16) कस्टम/15/97]

बी.बी. शर्मा, आयुक्त

OFFICE OF THE COMMISSIONER
CENTRAL EXCISE

Jaipur, the 12th August, 1998

CUSTOMS

No. 1/Cus. (NT)/98

S.O. 1677.—In exercise of the powers conferred by Notification No. 33/94-Customs (NT), dated the 1st July, 1994, by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, issued under clause (a) of Section 152 of Customs Act, 1962, I. B. B. Sharma, Commissioner of Customs and Central Excise, Jaipur-I, hereby declare MUKUNDGARH in the District of Jhunjhunu, State of Rajasthan, to be a warehousing station under the Customs Act, 1962 for the purpose of setting up a 100% E.O.U.

[F. No. V(16) Cus./15/97]

B. B. SHARMA, Commissioner

(आर्थिक कार्य विभाग)

(बीमा प्रभाग)

नई दिल्ली, 11 अगस्त, 1998

का.आ. 1678.—केन्द्रीय सरकार के दिनांक 27 जून, 1998 के समसंख्यक अधिसूचना के क्रम में, श्री जी. कृष्णामूर्ति अध्यक्ष भारतीय जीवन बीमा निगम की नियुक्ति की अवधि 30-6-2000 तक अर्थात् उनके सेवा निवृत्ति की

तारीख या अगले आदेश तक जो भी पहले हो एतद्द्वारा बढ़ाई जाती है।

[फा. सं. 14(2)/96-बीमा-5]

सी.एस.राव, संयुक्त सचिव

(Department of Economic Affairs)

(Insurance Division)

New Delhi, the 11th August, 1998

S.O. 1678.—In continuation of Notification of even number dated the 27th June, 1997 the Central Government hereby extends the appointment of Shri G. Krishnamurthy, Chairman, Life Insurance Corporation of India upto 30-6-2000 i.e. the date of his superannuation or until further order whichever is earlier.

[F. No. 14(2)/96-Ins. VI]

C. S. RAO, Jt. Secy.

नई दिल्ली, 12 अगस्त, 1998

का.आ. 1679.—भारतीय जीवन बीमा निगम के अधिनियम 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री जी. पी. कोहली, प्रबन्ध निदेशक, भारतीय जीवन बीमा निगम को, तत्काल प्रभाव से 30-6-2000 तक अर्थात् उनके सेवानिवृत्ति की तारीख तक अथवा अगले आदेश तक, जो भी पहले हो, भारतीय जीवन बीमा निगम के सदस्य के रूप में एतद्द्वारा नियुक्त करती है।

[फा.सं. 14(4)/98-बीमा-5]

आर. रंगनाथ, निदेशक

New Delhi, the 12th August, 1998

S.O. 1679.—In exercise of the powers, conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956) the Central Government hereby appoints Shri G. P. Kohli, Managing Director, Life Insurance Corporation of India as Member of the said Corporation with immediate effect upto 30-6-2000 i.e. the date of his superannuation or till further orders whichever is earlier.

[F. No. 14(4)/98-Ins. V]

R. RENGANATH, Director.

नई दिल्ली, 12 अगस्त, 1998

का.आ. 1680.—भारतीय जीवन बीमा निगम के अधिनियम 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, श्री यशपाल गुप्ता, प्रबन्ध निदेशक भारतीय जीवन बीमा निगम को, तत्काल प्रभाव से 31-10-2000 तक अर्थात् उनके सेवा निवृत्ति की तारीख तक अथवा अगले आदेश तक, जो भी पहले हो, भारतीय जीवन बीमा निगम के सदस्य के रूप में एतद्द्वारा नियुक्त करती है।

[फा.सं. 14(4)/98-बीमा-5]

आर. रंगनाथ, निदेशक

New Delhi, the 12th August, 1998

S.O. 1680.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956) the Central Government hereby appoints Shri Yashpal Gupta, Managing Director, Life Insurance Corpora-

tion of India as Member of the said Corporation with immediate effect upto 31-10-2000 i.e. the date of his superannuation or till further orders whichever is earlier.

[F. No. 14(4)/98-Ins. V]
R. RENGANATH, Director

विदेश मंत्रालय

(कंसुलर अनुभाग)

नई दिल्ली, 11 अगस्त, 1998

कां.प्रा. 1681—राजनयिक कंसुली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा भारत का कौंसलावास, हेम्बर्ग में सहायक श्री सुनील कुमार को 7-8-98 में सहायक कंसुली अधिकारी का कार्य करने के लिए प्राधिकृत करती है।

[सं.टी.-4330/1/98]

एन यू अविराचन, अवर सचिव (कौंस)

MINISTRY OF EXTERNAL AFFAIRS

(Consular Section)

New Delhi, the 11th August, 1998

S.O. 1681.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Sunil Kumar, Assistant in the Consulate General of India, Hamburg to perform the duties of Assistant Consular Officer with effect from 7-8-1998.

[No. T-4330/1/98]
N. U. AVIRACHEN, Under Secy. (CONS)

नई दिल्ली, 13 अगस्त, 1998

कां.प्रा. 1682—राजनयिक कंसुली अधिकारी (शपथ एवं शुल्क) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा भारत का दूतावास जंगरेब में सहायक श्री एच.एन. कुजूर को 12-8-98 से सहायक कंसुली अधिकारी का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी०-4330/1/98]

एन.यू. अविराचन अवर सचिव (पी.वी.एस.)

New Delhi, the 13th August, 1998

S.O. 1682.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri H. N. Kujur, Assistant, in the Embassy of India Zagreb to perform the duties of Assistant Consular Officer with effect from 12-8-1998.

[No. T-4330/1/98]
N. U. AVIRACHEN, Under Secy. (CONS)

वाणिज्य मंत्रालय

नई दिल्ली, 14 अगस्त, 1998

का.प्रा. 1683—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय

सरकार, मैसर्स एस.जी.एस. इंडिया लिमिटेड, 304-305 अन्नासलाई, तेयानमपेट, चेन्नई को इस अधिसूचना के राजनयिक में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए अकार्बनिक रसायनों से संबंधित भारत सरकार, वाणिज्य मंत्रालय की अधिसूचना सं. कां.प्रा. 1270, तारीख 25 मार्च, 1996 में वर्णित बर्गीकृत अनुसूची-II के अनुसार एक अधि-करण के रूप में निम्नलिखित शर्तों के अधीन मान्यता प्रदान करती है, अर्थात् :—

- (1) मैसर्स एस.जी.एस. इंडिया लिमिटेड, चेन्नई निर्यात निरीक्षण परिषद् द्वारा इस संबंध में नामित - अधिकारी को अपने द्वारा अपनाई गई निरीक्षण की प्रवृत्ति की जांच के लिए पर्याप्त सुविधाएं उपलब्ध कराएंगी जिसके द्वारा अकार्बनिक रसायनों के (निरीक्षण) नियम, 1966 के नियम 4 के अन्तर्गत निरीक्षण का प्रमाण पत्र जारी किया जाता है
- (2) मैसर्स एस.जी.एस. इंडिया लिमिटेड, चेन्नई इस अधिसूचना के अन्तर्गत अपने कृत्यों के पालन में ऐसे निदेशों द्वारा आबद्ध होगी जो निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) समय-समय पर लिखित रूप में देंगे।

[फाइल सं. 5/2/98-ईआईए&ईपी]

प्रभ दास, निदेशक

MINISTRY OF COMMERCE

New Delhi, the 14th August, 1998

S.O. 1683.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises, for a period of three years, from the date of publication of this notification in the Official Gazette, M/s. S.G.S. India Ltd., 304-305 Anna Salai, Teynampet, Chennai-600018 as an agency for inspection of Inorganic Chemicals specified in Schedule-II annexed to Government of India, Ministry of Commerce, Notification No. S.O. 1270 dated 25th March, 1966 prior to export, subject to the following conditions namely :—

- (i) that M/s. S.G.S. India Ltd., Chennai shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Inorganic Chemicals (Inspection) Rules, 1966;
- (ii) that M/s. S.G.S. India Ltd., Chennai in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[F. No. 5/2/98-EI&EP]

PRABH DAS, Director

नई दिल्ली, 14 अगस्त, 1998

का.प्रा. 1684—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एस.जी.एस. इंडिया लिमिटेड, 304-305 अन्ना सलाई, तेयानमपेट, चेन्नई-600018 को

इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए खनिज एवं अयस्क ग्रुप -I और ग्रुप-II के निरीक्षण के लिए भारत सरकार, वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 3975 तारीख 29-12-1965 और का. आ. 3978 तारीख 20-12-1965 क्रमशः में वर्णित वर्गीकृत अनुसूची के अनुसार एक अभिकरण के रूप में निम्नलिखित शर्तों के अधीन मान्यता प्रदान करती है, अर्थात् :—

- (1) मैसर्स एस.जी.एस. इंडिया लिमिटेड, चैन्नई निर्यात निरीक्षण परिषद द्वारा इस संबंध में नामित अधिकारी को अपने द्वारा अपनाई गई निरीक्षण की पद्धति की जांच के लिए पर्याप्त सुविधाएं उपलब्ध कराएंगी जिसके द्वारा खनिज तथा अयस्क ग्रुप I (निरीक्षण) नियम, 1965 के नियम 4 और खनिज तथा अयस्क ग्रुप-II (निरीक्षण) नियम 1965 के नियम 4 के अन्तर्गत निरीक्षण का प्रमाण-पत्र जारी किया जाता है।
- (2) मैसर्स एस.जी.एस. इंडिया लिमिटेड, चैन्नई इस अधिसूचना के अन्तर्गत अपने कृत्यों के पालन में ऐसे निर्देशों द्वारा आबद्ध होगी जो निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) समय-समय पर लिखित रूप में देगे।

[फाइल सं. 5/2/98-ईआई एण्ड ईपी]

प्रभ दास, निदेशक,

New Delhi, the 14th August, 1998

S.O. 1684.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises, for a period of three years, from the date of publication of this notification in the Official Gazette, M/s. S.G.S. India Ltd., 304-305 Anna Salai, Teynampet, Chennai-600018 as an agency for inspection of Minerals and Ores Group I and Group II specified in the schedule annexed to Government of India, Ministry of Commerce notification No. S.O. 3975 dated 20-12-1965 and S.O. 3978 dated 20th December, 1965 respectively, prior to export subject to the following conditions, namely :—

- (i) that M/s. S.G.S. India Ltd., Chennai shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores Group-I (Inspection) Rules, 1965 and rule 4 of the Export of Minerals and Ores Group -II (Inspection) Rules, 1965;
- (ii) that M/s. S.G.S. India Ltd., Chennai in the performance of their function under this notification, shall be bound by such directives as the Director (Inspection and Quantity Control) may give in writing from time to time.

[F. No. 5/2/98-El&EP.]
PRABH DAS, Director

नई दिल्ली, 14 अगस्त, 1998

का.आ. 1685.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एस.जी.एस. इंडिया लिमिटेड, 304-305 अन्नामलाई, तयानपेट, चैन्नई-600018 को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए कार्बनिक रसायनों से संबंधित भारत सरकार, वाणिज्य मंत्रालय की अधिसूचना सं. का. आ. 1197 तारीख 15-4-1966 में वर्णित वर्गीकृत अधिसूचना के अनुसार एक अभिकरण के रूप में निम्नलिखित शर्तों के अधीन मान्यता प्रदान करती है, अर्थात् :—

- (i) मैसर्स एस.जी.एस. इंडिया लिमिटेड, चैन्नई निर्यात निरीक्षण परिषद द्वारा इस संबंध में नामित अधिकारी को अपने द्वारा अपनाई गई निरीक्षण की पद्धति की जांच के लिए पर्याप्त सुविधाएं उपलब्ध कराएंगी जिसके द्वारा कार्बनिक रसायनों के (निरीक्षण) 1966 के नियम 4 के अन्तर्गत निरीक्षण का प्रमाण पत्र जारी किया जाता है।
- (ii) मैसर्स एस.जी.एस. इंडिया लिमिटेड, चैन्नई इस अधिसूचना के अन्तर्गत अपने कृत्यों के पालन में ऐसे निर्देशों द्वारा आबद्ध होगी जो निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) समय-समय पर लिखित रूप में देगे।

[फाइल सं. 5/2/98 ईआई एण्ड ईपी]

प्रभ दास, निदेशक

New Delhi, the 14th August, 1998

S.O. 1685.—In exercise of the powers conferred by Sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises, for a period of three years, from the date of publication of this notification in the official Gazette, M/s. S.G.S. India Ltd., 304-305 Anna Salai, Teynampet, Chennai-600018 as an agency for inspection of Organic Chemicals specified in Schedule annexed to Government of India, Ministry of Commerce, notification No. 1197 dated 15-4-1966, prior to export subject to the following conditions, namely :—

- (i) that M/s. S.G.S. India Ltd., Chennai shall give adequate facilities to the Officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection

under rule 4 of the Export of Organic Chemicals (Inspection) Rules, 1966;

- (ii) that M/s. S.G.S. India Ltd., Chennai in the performance of their function under this notification, shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[F. No. 5/2/98-EI and EPI
PRABH DAS, Director

मानव संसाधन विकास मंत्रालय

(शिक्षा विभाग)

नई दिल्ली, 10 अगस्त, 1998

का.आ. 1686.—केन्द्रीय सरकार, राजभाषा (संघ के सरकारी प्रयोजनों के लिए प्रयोग) नियम 1975 के नियम 10 के उपनियम (4) के अनुसरण में मानव संसाधन विकास मंत्रालय (शिक्षा विभाग) के अन्तर्गत निम्नलिखित केन्द्रीय विद्यालयों को जिनमें 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है अधिसूचित करती है :

1. केन्द्रीय विद्यालय
जोबनार,
जिला-जयपुर (राजस्थान)
2. केन्द्रीय विद्यालय नं. 1
उदयपुर प्रताप नगर,,
(राजस्थान)
3. केन्द्रीय विद्यालय,
आर.के. पुरम् सेंटर-4
नई दिल्ली-1100322
4. केन्द्रीय विद्यालय
न्यू फ्रेंड्स सेंटर,
विज्ञान विहार, दिल्ली-1
5. केन्द्रीय विद्यालय,
रघुनाथ पुरा,
डॉ. हमीदपुर (नारनौर)

[सं.एफ. 110011-5/97-रा.भा.ए.]
निदेशु ओम्हा, निदेशक (रा.भा.)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Education)

New Delhi, the 10th August, 1998

S.O. 1686.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (use for Official Purpose of the Union) Rules, 1976 the Central Govt. hereby notifies of the following Kendriya Vidyalayas under the Ministry of Human

Resource Development (Deptt. of Education) more than 80 per cent staff of which has working knowledge of Hindi :—

1. Kendriya Vidyalaya,
Jobnare,
Dist. Jaipur (Rajasthan)
2. Kendriya Vidyalaya No. 1
Udaipur Pratap Nagar,
(Rajasthan)
3. Kendriya Vidyalaya,
R. K. Puram, Sect 4,
New Delhi-110022.
4. Kendriya Vidyalaya,
New Freinds Centre,
Vigyan Vihar, Delhi.
5. Kendriya Vidyalaya,
Raghunathpura,
Dr. Hamidpur.
(Narnaul).

[No. 11011-5/98-O.L.U.]

NISHENDU OJHA, Director (O.L.)

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, -6 अगस्त, 1998

का.आ. 1687.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खंड (ग) के अनुसरण, में राजस्वीकृत चिकित्सा स्वातन्त्र्य निर्वाचन क्षेत्र आन्ध्र प्रदेश से भारतीय आयुर्विज्ञान परिषद् के सदस्य के निर्वाचन का संचालन किया है जहां से डा. लक्ष्मी वैकटाराव चुंदुरी को पांच वर्ष की अवधि अवधि के लिए भारतीय आयुर्विज्ञान परिषद् का सदस्य रिटनिंग ऑफिसर द्वारा 14 जनवरी, 1996 को निर्वाचित घोषित किया गया है ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 3 की उपधारा (1) के अनुसरण में, भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना सं. का.आ. 138, तारीख 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है अर्थात् :—

उक्त अधिसूचना में, शीर्षक “धारा 3 की उपधारा (1) के खंड (ग) के अधीन निर्वाचित” के अधीन क्रम सं. 8 और उससे संबंधित प्रविष्टियों के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् :—

“8. डा. लक्ष्मी वैकटाराव, चुंदुरी,

2 ई, ध्रुवतारा अपार्टमेंट,

कृषि मंत्रालय

सोमाजी गुडा, हैदराबाद-110082।

(पशुपालन एवं डेयरी विभाग)

वह 13 जनवरी 2001 तक पद धारण करेंगे।

नई दिल्ली, 17 अगस्त, 1998

[फा० सं० वी-11013/51/87-एम०ई० (यू०जी०)]
एम०के० मिश्रा, डेस्क अधिकारी

टिप्पण :- मूल अधिसूचना भारत के राजपत्र में अधिसूचना सं.का.आ. 138 तारीख 9 जनवरी, 1960 द्वारा प्रकाशित की गई थी।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 6th August, 1998

S.O. 1687.—Whereas in pursuance of clause (c) of sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government has conducted election of a member to the Medical Council of India from the Registered Medical Graduates Constituency, Andhra Pradesh wherefrom Dr. Lakshmi Venkata Rao Chunduri has been declared elected on the 14th January, 1996 by the Returning Officer to be a member of the Medical Council of India for a period of five years ;

Now, therefore, in pursuance of sub-section (1) of Section 3 of the said Act the Central Government hereby makes the following further amendments in the notification of Government of India in the then Ministry of Health, number S.O. 138 dated the 9th January, 1960, namely :—

In the said notification under the heading "Elected under clause (c) of sub-section (1) of Section 3", for serial number 8 and the entries relating thereto, the following shall be substituted, namely :—

"8. D Lakshmi Venkata Rao Chunduri,
2-E, Dhruvatar Apartments,
Somajiguda, Hyderabad-110082."

He will hold office upto the 13th January, 2001.

[No. V-11013/51/87-ME (UG)]

S. K. MISHRA, Desk Officer

Note—The principal notification was published in the Gazette of India, vide Notification No. S.O. 138, dated the 9th January, 1960.

का.आ. 1688.—इस विभाग की दिनांक 2 फरवरी, 1998 की समसंख्यक अधिसूचना के क्रम में तथा पशुधन आयात अधिनियम, 1898 (1898 का 9) के खंड 2 की धारा (ख) तथा खंड-3 के उपखंड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार आस्ट्रेलिया चीन, इटली, नेपाल तथा पाकिस्तान से भारत में पालतू तथा जंगली पक्षियों, एक दिन पुराने चूजों टर्की चूजों तथा अन्य नव उत्पादित पक्षी प्रजातियों, अंडज उत्पत्तिशाला अंडों, पालतू और जंगली पक्षियों के वीर्य, पालतू और जंगली पक्षियों के ताजे मांस पशु आहार के उपयोग के लिए अथवा औद्योगिक इस्तेमाल के लिए पशु मूल (पक्षियों से) के उत्पादों, रोगात्मक सामग्री तथा जंतिक उत्पादों (पक्षियों से) जिन्हें प्रसंस्कृत नहीं किया गया है, के आयात पर इस अधिसूचना की जारी होने की तारीख से आगे और छः महीने की अवधि के लिए एन-द्वारा प्रतिबंध लगाती है ताकि पक्षी एनफ्लूजा (फाउल प्लेग) के वायरस को खत्म करने का मुनिश्चय किया जा सके।

[फाइल संख्या 50-4/84-एल.डी.टी.(ए.क्यू.)]
गोविन्द रा० पटवर्धन, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Animal Husbandry and Dairying)

New Delhi, the 17th August, 1998

S.O. 1688.—In continuance of this department's notification of even number dated 2nd February, 1998 and in exercise of the powers conferred by Clause (b) of Section 2 and sub-section (i) of Section 3 of the Livestock Importation Act, 1898 (9 of 1898), the Central Government hereby prohibits import into India of domestic and wild birds, day old chicks, turkeys poults and other newly-hatched avian species; hatching eggs; semen of domestic and wild birds; fresh meat of domestic and wild birds; products of animal origin (from birds) destined for use in animal feeding or for industrial use; pathological material and biological products (from birds) which have not been processed to ensure the destruction of Avian Influenza (Fow) Plague virus) from Australia, China, Italy, Nepal and Pakistan for a further period of 6 months.

[File No. 50-4/84LDT (AQ)]

G. R. PATWARDHAN, Jt. Secy.

जल-भूतल परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 11 अगस्त, 1998

का०आ०1689.—सरकार, राष्ट्रीय पोत परिवहन बोर्ड नियमावली, 1960 के नियम 4 के साथ पठित वाणिज्यिक पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस मंत्रालय की दि. 19 अगस्त, 1997 की अधिसूचना सं० एस-18011/2/96-एस. एल. का अधिकरण करते हुए भारत सरकार, जल-भूतल परिवहन मंत्रालय (नौवहन पक्ष) की दि. 11 अप्रैल, 1997 की अधिसूचना सं० एस.एस.-18011/2/96-एस. एल. में निम्नलिखित संशोधन करती है :

11 अप्रैल, 1997 की उक्त अधिसूचना में 2 से 5 तक विद्यमान प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियाँ प्रतिस्थापित की जाएंगी अर्थात् :

- "2. श्री पी० एस० गात्री,
संसद सदस्य (लोकसभा)
3. श्री ए०सी०जोष,
संसद सदस्य (लोकसभा)
4. श्री किशन सिंह सांगवान,
संसद सदस्य (लोकसभा)
5. श्री मधुकर सरपोतदार,
संसद सदस्य (लोकसभा)"

[फा०सं० एस, एस.18011/2/96एसएल]

आर. के. शर्मा, अवसर सचिव

MINISTRY OF SURFACE TRANSPORT

(Shipping Wing)

New Delhi, the 11th August, 1998

S.O. 1689 —In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958) read with Rule 4 of the National Shipping Board Rules, 1960 and in supersession of this Ministry's notification No. SS-18011/2/96-SL dated 19 August, 1997, the Government hereby makes the following amendments in the Government of India, Ministry of Surface Transport (Shipping Wing's) notification No. SS-18011/2/96-SL dated 11 April, 1997 :—

In the said notification dated 11 April, 1997, for the existing entries at 2 to 5, the following entries shall be substituted, namely :—

- "2. Shri P. S. Gadhave
M.P. (Lok Sabha)
3. Shri A. C. Jose
M.P. (Lok Sabha)

4. Shri Kishan Singh Sangwan
M.P. (Lok Sabha)5. Shri Madhukar Sirpotdar
M.P. (Lok Sabha)"

[F. No. SS-18011/2/96-SL]

R. K. SHARMA, Under Secy.

नई दिल्ली 17 अगस्त, 1998

का०आ०1690.—नाविक भविष्य निधि स्कीम, 1966 के पैराग्राफ 3 के साथ पठित नाविक भविष्य निधि अधिनियम, 1966 (1966 का 4) की धारा 5 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार जल-भूतल परिवहन मंत्रालय (नौवहन पक्ष) की अधिसूचना सा.आ.सं. 277, दिनांक 27, जनवरी, 1996 में निम्नलिखित संशोधन करती है ।

उक्त अधिसूचना में शीर्षक "नियोक्ताओं के प्रतिनिधि "सदस्यों" और इससे संबंधित प्रविष्टियों में श्री आर. अनन्तकृष्णन के स्थान पर निम्नलिखित शीर्षक और प्रविष्टियाँ प्रतिस्थापित की जाएंगी, अर्थात् :—
नियोक्ताओं के प्रतिनिधि :

1. श्री पी आर मुद्रास महाप्रबन्धक (लेखा)
भारतीय नौवहन निगम, मुम्बई ।
[एस टी -14018/1/95-एम.टी.]
संजय विक्रम सिंह अवसर सचिव

New Delhi, the 17th August, 1998

S.O. 1690.—In exercise of the powers conferred under Section 5 of the Seamen's Provident Fund Act, 1966 (4 of 1966) read with paragraph 3 of the Seamen's Provident Fund Scheme, 1966, the Central Government hereby makes the following amendments in the Notification of the Government of India in Ministry of Surface Transport (Shipping Wing) S.O. number 277 dated 27th January 1996.

In the said notification for the headings "Employer's Representatives" "Members" and the entries relating thereto, the following headings and entries shall be substituted in place of Sh. R. Ananthakrishnan, namely :—

Employer's Representatives :

1. Shri P. R. Mudras

General Manager (Accounts),
Shipping Corporation of India
Mumbai.

[ST-14018/1/95-MT]

SANJAY VIKRAM SINGH, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 24 अगस्त, 1998

का.आ. 1691.— केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाईप-लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन तारीख 13 जून 1998 के भारत के राजपत्र में प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1180 तारीख 05/06/98 द्वारा पेट्रोलियम के परिवहन के लिए पाइप लाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ हितवन्ध व्यक्तियों को तारीख 24/06/98 को उपलब्ध करा दी गई थी ;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित किया जाना चाहिए ।

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है ;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाय, सभी विल्लंगनो से मुक्त होकर भारत ओमान रिफायनरीज लिमिटेड में निहित होगा ।

अनुसूची

राज्य : मध्य प्रदेश

अनु क्रमांक	जिला	तहसील	ग्राम का नाम	सर्बे क्रमांक	क्षेत्रफल हेक्टेयर / आरे
1	2	3	4	5	6
1.	धार	बदनाबर	टीटीपाड़ा	155	0.010
			काछीबड़ोदा	479 P	1.100
				676	0.516
				678	0.577
			मूल्थान	1286 P	0.230
2.	उज्जैन	बड़नगर	अजड़ावदा	826	0.124
				827	0.376
3.	उज्जैन	महिदपुर	बरखेड़ी बाजार	139 P	0.030
4.	रतलाम	रतलाम	सुजलाना	285	0.075

Ministry of Petroleum and Natural Gas

New Delhi, the 24th August, 1998

S.O. 1691.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No.S.O. 1180 dated 05-06-98, issued under subsection (1) of section 3 of Petroleum and Minerals Pipelines (Acquisition of Rights of User in lands) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated 13/06/98, the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to the notification for the purpose of laying pipeline for the transport of Petroleum .

And whereas, the copies of the said Gazette notification were made available to the public on 24th June 1998.

And whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the rights of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said lands shall, instead of vesting in the Central Government, vest free from all encumbrances, in Bharat Oman Refineries Ltd.

SCHEDULE

State :- Madhya Pradesh

Sr. No.	District	Tehsil	Village	Survey No.	Area Hect./Are
1	2	3	4	5	6
1.	Dhar	Badnavar	Titipada	155	0.010
			Kachhi baroda	479P	1.100
				676	0.516
				678	0.577
			Multhan	1286 P	0.230
2.	Ujjain	Badnagar	Ajadawada	826	0.124
				827	0.376
3.	Ujjain	Mahidpur	Barkhedhi Bazar	139P	0.030
4.	Ratlam	Ratlam	Sujlana	285	0.075

(No. R-31015/40/97 - OR. II)

K. C. Katoch, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 24 अगस्त, 1998

का.आ. 1692.— केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1095, तारीख 27 मार्च, 1997 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 26 अप्रैल, 1997 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है; और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लगों से मुक्त होकर भारत ओमान रिफाईनरीज़ लिमिटेड में निहित होगा।

अनुसूची

तालुका: जामनगर		जिला: जामनगर		राज्य: गुजरात	
गांव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र			
		हेक्टर	आरे	सेन्टीआरे	
(1)	(2)	(3)	(4)	(5)	
लाखाबावल	131 पैकी सार्वजनिक हेतु - प्लॉट 9 की पश्चिम दिशामे आए हुए रोड की पश्चिम दिशामे स्थित।	0	00	08	
	131 पैकी रोड - प्लॉट 49 की पश्चिम दिशामे स्थित।	0	00	28	
	131 पैकी रोड - प्लॉट 49 की पश्चिम दिशामे एवम प्लॉट 48 की पूर्व दिशामें स्थित।	0	00	97	
	131 पैकी सार्वजनिक हेतु - प्लॉट 45 की दक्षिण दिशामें रोड की दक्षिण दिशामें स्थित।	0	00	35	
	142 सार्वजनिक हेतु - प्लॉट 1, 12, 13, 24, 25, 36 की दक्षिण दिशामें रोड की दक्षिण दिशामें स्थित।	0	17	04	
	142 रोड - प्लॉट 25 की पूर्व दिशामे एवम प्लॉट 24 की पश्चिम दिशामें स्थित।	0	00	43	
	142 रोड - प्लॉट 1, 12 की दक्षिण दिशामे एवम प्लॉट 13 की पूर्व दिशामे स्थित।	0	05	81	
	150 पैकी सार्वजनिक हेतु - प्लॉट 1 की पूर्व दिशामे एवम प्लॉट 2 की दक्षिण पश्चिम दिशामें स्थित।	0	04	66	

(1)	(2)	(3)	(4)	(5)
	150 पैकी रोड - प्लॉट 1 की पूर्व दिशामे एवम प्लॉट 2 की दक्षिण पश्चिम दिशामें 150 पैकी सार्वजनिक हेतुमे स्थित।	0	01	17
	146 पैकी सार्वजनिक हेतु - प्लॉट 1 की दक्षिण दिशामे एवम प्लॉट 2,3 की उत्तर दिशामे स्थित।	0	09	33
	146 पैकी रोड - प्लॉट 2 (अ) की पूर्व दिशामे एवम प्लॉट 3(अ), 4(अ) की पश्चिम दिशामें स्थित।	0	02	25
	146 पैकी रोड - प्लॉट 1 एवम सार्वजनिक हेतु प्लॉट की पूर्व दिशामे एवम प्लॉट 5,6 की पश्चिम दिशामें स्थित।	0	01	90
	213 पैकी सार्वजनिक हेतु - सर्वेक्षण सं. 214 पैकी प्लॉट 1, 2 की पश्चिम दिशामे स्थित।	0	03	62
	213 पैकी रोड - सर्वेक्षण सं. 214 पैकी प्लॉट 1, 2 की पूर्व दिशामे एवम सर्वेक्षण सं. 214 पैकी प्लॉट 3, 4 की पश्चिम दिशामे स्थित।	0	02	70
	214 पैकी रोड - प्लॉट 9,10 की पूर्व दिशामे एवम प्लॉट 11,12 की पश्चिम दिशामें स्थित।	0	02	70
	214 पैकी रोड - प्लॉट 15,16 की पूर्व दिशामे एवम प्लॉट 17,18 की पश्चिम दिशामें स्थित।	0	02	70
	214 पैकी रोड - प्लॉट 21,22 की पूर्व दिशामे एवम प्लॉट 23,24 की पश्चिम दिशामें स्थित।	0	03	60
	226 सार्वजनिक हेतु - सर्वेक्षण सं. 225 की दक्षिण दिशामे एवम प्लॉट 1 की पूर्व दिशामे स्थित।	0	15	39
	229 पैकी सार्वजनिक हेतु - सर्वेक्षण सं. 230 की दक्षिण दिशामे एवम प्लॉट 5,6,9,10 की उत्तर दिशामे आइओसी की उत्तर दिशामे स्थित।	0	19	73
	238 पैकी रोड - प्लॉट 3 की उत्तर पश्चिम दिशामे स्थित।	0	00	20
	246 पैकी रोड - प्लॉट ड की दक्षिण दिशामे एवम प्लॉट ब की उत्तर दिशामे एवम गाँव की हद्द की पश्चिम दिशामें स्थित।	0	14	84

Ministry of Petroleum and Natural Gas

New Delhi, the 24th August, 1998

S.O. 1692.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S. O. 1095 dated the 27th March 1997, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas, the copies of the said gazette notification were made available to the public on the 26th day of April, 1997;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of section 6, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited;

Schedule

Taluka : Jamnagar

District : Jamnagar

State : Gujarat

Name of Village	Survey/Block No. No.	Area		
		Hectare	Are	Centare
(1)	(2)	(3)	(4)	(5)
Lakhabaval	131 Paiki Common Purpose on West side of road on West of plot 49.	0	00	08
	131 Paiki Road on West side of plot 49.	0	00	28
	131 Paiki Road on West of plot 48 and East of plot 49	0	00	97
	131 Paiki Common Purpose on South side of road on South of plot 45.	0	02	35
	142 Common Purpose on South side of road in South of plot 1, 12, 13, 24, 25, 36.	0	17	84
	142 Road on East side of plot 25 and on West of plot 24.	0	00	43

(1)	(2)	(3)	(4)	(5)
	142 Road on South side of plot 1, 12 and on East of plot 13.	0	05	81
	150 Paiki Common Purpose on East side of plot 1 and on South- West of plot 2.	0	04	66
	150 Paiki Road within 150P Common Purpose on East of plot 1 and on SouthWest of plot 2.	0	01	17
	146 Paiki Common Purpose on South side of plot No.1 and on North side of plot 2 and 3.	0	09	33
	146 Paiki Road on East side of plot No. 2(A) and on West of plot No. 3(A) & 4(A).	0	01	90
	146 Paiki Road on East side of plot 1 and that for common purpose and on West of plot No. 5 & 6.	0	02	25
	213 Paiki Common Purpose on West side of plot 1 of S.No. 214 P & plot 2 of S.No. 214 P.	0	03	62
	213 Paiki Road on East side of plot 1 & 2 of S.No. 214 P and West of plot 3 & 4 of S.No. 214 P.	0	02	70
	214 Paiki Road on East of plot 9, 10 and West of plot 11, 12.	0	02	70
	214 Paiki Road on East of plot 15, 16 and West of plot 17, 18.	0	02	70
	214 Paiki Road on East of plot 21, 22 and West of plot 23, 24.	0	03	60
	226 Common Purpose on South of S.No. 225 and on East of plot 1.	0	15	39
	229 Paiki Common Purpose on South of S.No. 230 & in North of I.O.C. in North of plot 5, 6, 9, 10.	0	19	73
	238 Paiki Road on North West of plot No. 3.	0	00	20
	246 Paiki Road on South of plot D and on North of plot B and on West of Village Boundary.	0	14	84

[File No. R-31015/28/96-OR.II]
K. C. Katoch, Under Secy.

श्रीम संवासाय

नई दिल्ली, 21 जुलाई, 1998

कां.आ. 1693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यकी बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में गिरावट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार की 20-7-98 को प्राप्त हुआ था।

[सं. एड./12012/270/92-आई.आर.(बी.-II)]
सनान, डेस्क अधिकारी

New Delhi, the 21st July, 1998

S.O. 1693.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 20-7-1998.

[No. L-12012/270/92 IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESID-
ING OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR
COURT DEOKI PALACE ROAD, PANDU
NAGAR, KANPUR

Industrial Dispute No. 13 of 1993

In the matter of dispute between :

B. P. Saxena, Member Central Committee,
U.P. Bank Employees Union, 127/191,
Saket Nagar, Kanpur.

AND

Asstt. General Manager, UCO Bank 23
Vidhan Sabha Marg, Lucknow.

APPEARANCE :

Shri B. P. Saxena for the workmen.

Shri Sunil Mehrotra for the Management.

AWARD

1. Central Government Ministry of Labour
New Delhi vide its Notification No. L-12012/270/
92-IR(BII) dated 27-1-1993 has referred the fol-
lowing dispute for adjudication to this Tribunal :

"Whether the action of the management of
UCO Bank in recovering Rs. 6050 from

the provident Fund of Shri B. L. Pandey
and not paying him full salary for the
suspension period is justified ? If not, to
what relief Shri Pandey is entitled to ?

2. There is no dispute that B. L. Pandey the concerned workman was working as Special Assistant at Halsey Road Branch at Kanpur of the opposite party UCO Bank. In the year 1977-78 he has alleged to have committed certain acts of misconducts, in respect of which F.I.R. was lodged against him on 11-8-1978 under Section 420, 467, 468 I.P.C. He was placed under suspension on 7-2-1981. Ultimately in the trial the concerned workman was acquitted on 19-6-1989. His suspension was revoked on 15-9-1989. In spite of acquittal of the concerned workman the opposite party management decided to draw to hold domestic enquiry against the concerned workman. Hence a charge sheet dated 7-8-1989 was issued to him the copy of which is being attached herewith. Enquiry Officer after completing enquiry found that all the charges were proved. Hence on the basis of this report the concerned workman by order dated 30-10-1989 has been awarded punishment by way of recovery of Rs. 6050 from the provident fund and also by denying full pay for suspension period. Feeling aggrieved the concerned workman has raised the instant reference.

3. In the claim statement the fairness and propriety of domestic enquiry was challenged. It was also alleged that the concerned workman had not indulged in any mal-practice, as alleged in charge sheet. He also denied that he was habitual debtor.

4. On the other hand the opposite party has maintained that enquiry was fairly and properly held. The concerned workman has actually committed various acts of misconducts as alleged in the charge sheet.

5. In the rejoinder nothing new was alleged.

6. On the pleading of the parties a preliminary issue regarding fairness and propriety of domestic enquiry was framed. Vide finding dated 8-1-1997 it was held that enquiry was not fairly and properly held, in as much as full opportunity of defence was not given to the concerned workman hence the enquiry report was set aside and management bank was given opportunity to prove misconducts on merits.

7. The management has examined Santosh Kumar, Asstt. Cashier MW(1), Radha Krishan Shukla MW(2) and Hari Gopal Vashney MW(3). Beside Ext. M-1 to Ext. M-5 and Ext. M-21 to Ext. M-23 have been referred to in the evidence. In rebuttal there is evidence of concerned workman B. L. Pandey WW(1). There is no documentary evidence.

8. Now, it will be seen how for the above mentioned charges have been proved from the above mentioned evidence adduced by the Bank.

9. At the outset it may be mentioned that the management has not adduced any evidence to prove charges 1. (a) (b) (d) (e) and (h). Hence it is held that these five charges not proved for want of evidence.

9. Santosh Kumar MW-1 with the help of Ext. M-1 has tried to prove charges No. (c). The substance of this charge is that on 16-3-1978 he had verified forged signature of C. P. Yadav having S.B. A/C No. 4165 and posted the same in ledger. The payment of Rs. 400 was obtained by the verified forged signature of C.P. Yadav having Kumar MW(1) has stated that on 16-3-1978 the concerned workman came to his counter along with withdrawal form and requested to make payment as customer was sitting at his table. Hence, he had made payment. In his cross examination he had stated that he was too punished on the basis of enquiry in this regard. In his cross examination he has further admitted that when ever customer come to take payment his signature are obtained. Still he did not obtained signature of customer. He also did not obtain the signature of the concerned workman. The concerned workman B. L. Pandey has denied that he ever went to this witness with the request to make payment of Rs. 400. From the above it will be evident that there is no evidence about forging signature of C. P. Yadav by the concerned workman hence this much part of charge is not proved for want of evidence. As regards actual payment the bank ought to have examined C. P. Yadav to prove that he had not received money. In its absence the evidence of Santosh Kumar based on old memory can not be accepted. Hence, it is also not proved that the concerned workman had obtained Rs. 400. (c) is not proved.

10. Charges No. 1(f) is that on 25-2-1978 the concerned workman had passed withdrawal slip of Rs. 1,500 drawn by S. P. Tripathi on his S.B. A/c No. 6304 and misappropriated the amount. For proving this charge the management had relied upon the evidence of Cashier-cum-Godownkeeper Radhey Krishan Shukla MW(?) Further he has proved Ext. M-2. He has stated that this voucher brought by a peon at his table and was entered in Token Book. After some times the concerned workman came to him and requested to make payment as customer was sitting at his table. There after this witness talked to chief cashier who asked him to make payment and its entry may be made in the register by way of "Yad-Dashat". In his cross examination he has admitted that he has not made any such entry. In rebuttal B. L. Pandey WW(1) denied this fact. In my opinion in the absence of nothing of "Yad-Dashat" by this witness it will not be same to rely upon this witness after passage

of such a long time. Further S. P. Tripathi has not examined to prove that he has not been made payment of this amount. Thus on the whole the evidence adduced by the management is not reliable. Hence this charge is also not proved.

11. The substance of charge 1(g) is that on 24-1-1978 the concerned workman had verified forged signature of Ram Dularey Dixit on withdrawal Slip of Rs. 200 in S.B. A/C No. 11914 and had misappropriated the amount. In this regard one Ext. M-3 withdrawal slip has been filed. No evidence has been adduced to prove that signature of Ram Dularey Dixit was forged and the concerned workman had produced this voucher at counter and had obtained payment. Hence, this charge is also not proved for want of evidence.

12. Charge No. 1(j) is that the concerned workman had verified forged signature of Nanak Chand Maheshwari on withdrawal Slip Rs. 1,000 on 9-3-1978 in his S.B. A/C No. 4965 and had misappropriated the amount. In this regard there is only Ext. M-4 withdrawal Slip; no oral evidence has been adduced to prove that the concerned workman had verified forged signature of Nanak Chand and had obtained the payment. Hence this is also not proved for want of evidence.

13. Charge No. 1 (i) read as under :—

On 20-7-1978 you have passed a withdrawal slip of Rs. 215 pertaining to S.B. A/C No. 4310 of Shri Ashwani Kumar, which was returned on 19-7-1978 on account of insufficient funds in the S.M. A/C, of the account holder by the ledger keeper. The said withdrawal was passed by you without getting it debited/posted in respective savings Bank account. On being pointed out to you, by the branch officials for such gross negligence on your part, you deposited Rs. 215 in sundry Creditors account on the same day.

A bare perusal of this charge is so to show that it does not constitute misconduct at all as on that very day when mistake was deducted the concerned workman had deposited Rs. 215. As this charge does not amount to misconduct question for its having being proved does not arise.

14. From the above it will be seen that none of the charge as contained in charge No. 1(a) to (i) have been found to be proved.

15. As regard charge No. 2 regarding excess borrowings from friends and bank customers the same has not been proved by any oral evidence. Instead some copies of court decree have been filed. In my opinion there is stray evidence of borrowing would not constitute any misconduct of habitual borrower. Hence this charge is also not proved.

16. From the above discussion it will be seen that all the charges against the concerned workman have not been proved. Hence he has been wrongly punished.

17. Accordingly my award is that order of punishment passed by the disciplinary authority against the concerned workman for recovery of Rs. 6000 from his provident fund and denial of full salary for suspension period is not justified. Consequently he will be entitled for recovery of full wages for suspension period from 1-2-1981 to 15-9-1989. He will be also entitled for regular benefits.

B. K. SRIVASTAVA, Presiding Officer

UCO BANK

Lucknow, the 7th August, 1989

Shri Brij Lal Pandey,
(Firm No. 1043),
C/o UCO Bank,
Zonal Office,
25, Vishnu Sabha Marg,
Lucknow.

Dear Sir,

In terms of Clause 19.3(c) of Finance Bipartite Settlement dated 19-10-1980 read with 19.12, it has been decided to proceed against you in respect of the serious acts or omissions and commissions committed by you during your posing as Special Asstt. at our Rasey Road, Kanpur branch by making wrong debit entries in various savings Bank Accounts of the Bank's customers, verifying forged signatures of the account holders on withdrawal slips, passing such fraudulent withdrawals for payment, receiving wrongful payments on the basis of such fraudulent withdrawals and thus abusing your position as Special Asstt. The details of such acts of omission and commissions as committed by you in different savings bank accounts with ulterior motive and with the intention to defraud the bank and its customers are given hereunder :—

1. (a) On 28-6-77 you have with ulterior motive and with the intention to defraud the bank verified the signature on withdrawal slip for Rs. 1500/- having forged signature of Shri S.P. Tripathi in Hindi (whereas Shri S. P. Tripathi's signature in bank's record for his savings Bank A/c. No. 4294 are in English) and posted the same in the Savings Bank A/c. No. 4165 of Shri C. P. Yadav. You also entered the withdrawal slip in token book and passed the same for payment.
- (b) On 5-11-77 you have wrongly and with ulterior motive posted a withdrawal slip for Rs. 500/- drawn by Shri S.P. Tripathi

on his Savings Bank A/c. No. 4294 in the ledger in the Savings Bank A/c. No. 4165 of Shri C. P. Yadav. You have also entered the said withdrawal slip in token book and passed the same for payment.

- (c) On 16-3-78 you have with the intention to defraud the bank and its customers verified forged signatures of Shri C.P. Yadav S.D. A/c. No. 4165 on the withdrawal slip of Rs. 400/- and passed the same in ledger. You have entered the said withdrawal in the token book and passed it for payment. The payment of said withdrawal was also obtained by you from the Paying Cashier and the amount was misappropriated by you.
- (d) On 21-3-77 you have with ulterior motive and with the intention to defraud the bank verified forged signature of Shri S.P. Tripathi in Hindi (whereas in bank's record his signature are in English) on withdrawal slip of Rs. 400/- which was posted in the account of Shri Tripathi, entered the withdrawal in the token book and the same was passed for payment by you.
- (e) On 18-5-77 you with ulterior motive verified the forged signature of Shri S.P. Tripathi in Hindi (whereas in bank's record Shri Tripathi's signatures are in English) on a withdrawal slip for Rs. 300/- drawn on his S.B. A/c. No. 4294 posted the same in the ledger, entered it in the token book and passed for payment.
- (f) On 25-2-78 you have passed a withdrawal slip for Rs. 1500/- drawn by Shri S.P. Tripathi on his S. B. A/c. No. 4294, obtained its payment and misappropriated the said sum.
- (g) On 24-1-78 you have with ulterior motive verified forged signature of Shri Ram Dulare Dixit on withdrawal slip of Rs. 200/- in S.B. A/c. No. 4914. You have yourself posted the said withdrawal slip in the ledger entered it in the token book, passed it and obtained its payment and misappropriated the amount.
- (h) On 3-3-78 you have with the intention to defraud the bank and its customer wrongly debited a withdrawal slip dated 25-2-78 for Rs. 250/- drawn by Shri S.P. Tripathi in his S.B. A/c. No. 4294 to the S.B. A/c. No. 4310 of Shri Ashwani Kumar but mentioned the ledger folio No. 15/67 of Shri C.P. Yadav instead of Ashwani Kumar i.e. 15/355. You

have yourself posted the said withdrawal in the ledger, entered in token book and passed, for payment. You have also made the entry of this amount in pass book.

(i) On 20-7-78 you have passed a withdrawal slip of Rs. 215/- pertaining to S.B. A/c. No. 4310 of Shri Ashwani Kumar, which was returned on 19-7-78 on account of insufficient funds in the S.B. A/c. of the account holder by the ledger keeper. The said withdrawal was passed by you without getting it debited/posted in respective savings bank account. On being pointed out to you, by the branch officials, for such gross negligence on your part, you deposited Rs. 215/- in Sundry Creditors account on the same day.

(j) On 29-3-78 you have malafide intention and to defraud the bank verified forged signature of Shri Nanak Chand Maheshwari on withdrawal slip of Rs. 1000/- in S. B. A/c. No. 4965, you posted the same in the ledger, entered in the token book, passed for payment and after obtaining its payment misappropriated the amount.

You were neither required to verify signatures on above withdrawals as the said duty was not assigned to you nor the signature cards were in your custody. In spite of this with malafide intention and to defraud the bank you verified signatures, posted in ledger entered in token book and passed for payment all the above withdrawals.

2. You made excess borrowings from your friends and bank's clients some of whom have brought attachment orders from courts for attachment of your salary in view of debts incurred by you.

You have been issued warnings/memos in past for issuing cheques/withdrawals to the parties without having sufficient funds in your account resulting in closure of your savings bank account by the bank on 11-2-1969. Thereafter your salary was paid to you through Manager's cheque. In spite of your account being closed you issued several withdrawal slips to the parties to defraud them for which letters and warnings were issued to you from time to time by the branch Manager.

Your above acts of defalcation, malfeasance, forgery and repeated excessive borrowings despite warnings/memos in this regard for more than 3 times constitute gross misconduct in terms of provisions of Bipartite Settlement(s) and therefore you are hereby charged as under :—

(1) Your acts of forgery, gross negligence, malfeasance defalcation and misappropriation of Bank's and its customer's Money as per details given above, are prejudicial to the interest of the bank and likely to involve the bank in serious loss which constitute gross misconduct in terms of clause 19.5 (J) of First Bipartite Settlement dated 19-10-1966.

(2) Your act of habitual excessive borrowings from friends and parties despite repeated warnings on more than 3 previous occasions constitute gross misconduct in terms of clause-19.5 (f) of First Bipartite Settlement, read along with 19.7 (g).

You are hereby called upon to submit your written statement of defence specifically admitting or denying each of the allegations/charges within seven days from the date hereof as to why disciplinary action should not be taken against you in accordance with the provisions of Bipartite Settlement, failing which it will be construed that you have no explanation to offer and further actions in the matter will be initiated as per rules. The allegations/charges not specifically denied will be deemed to have been admitted by you.

Pending enquiry in respect of the chargesheet against you, your suspension order passed by the bank vide its letter No. AGM-B/1674/81 dated 7-2-1981 will continue and would be entitled to only subsistence allowance for the period of suspension. For the period of suspension you would not be entitled to any pay and allowances beyond subsistence allowance and the period of absence would not be treated as period spent on duty.

Sd/-

(Illegible)

Disciplinary Authority
Asstt. General Manager

नई दिल्ली, 3 अगस्त, 1998

का.आ. 1694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-98 को प्राप्त हुआ था।

[संख्या एल-22012/297/96-आई.आर. (सी. II)]

लोली माऊ, डैस्क अधिकारी

S.O. 1694.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C. Ltd., and their workman, which was received by the Central Government on 31-7-1998.

[No. L-22012/297/96-IR (C-II)]
LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 51/97

PRESENT :

Shri R. S. Mishra, Presiding Officer.

PARTIES :

Employers in relation to the management of Begunia Project of M/s. B.C.C.L.,

AND

Their workmen

APPEARANCES :

For the Employer—Sri P. K. Das, Advocate.

For the Workman—None.

INDUSTRY : Coal. STATE : West Bengal.

Dated the 30th June, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012/297/96-IR(C.II) dated 11/14-7-97.

"Whether the demand of the Dhanbad Colliery Karmachari Sangh (BMS) on the management of Begunia Project of M/s. BCCL for regularising S/Shri Somnath Ghosh, Surendra Pandey and Krishna Thakur as Pit Munshis and Sh. Swarup Das as Magazine Clerk is legal and justified? If so, what relief are the workmen entitled and from which date?"

2. The management files copies of settlement arrived at between the parties, with prayer to pass award as per settlement.

3 Hence award "as per settlement" is passed. The settlement forms a part of this award.

R. S. MISHRA, Presiding Officer

BEFORE THE HON'BLE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

AT ASANSOL

REF. No 51/97

PARTIES :

Employers in relation to the management of Begunia Project of M/s. Bharat Coking Coal Ltd.

AND

Their Workmen.

Your humble petitioners respectfully beg to sweth as under :—

1. That, the Ministry of Labour, Government of India, New Delhi made a Reference for adjudication at the Hon'ble Tribunal of the Industrial Dispute raised by Dhanbad Colliery Karmachari Sangh (B.M.S.) vide No. 51/97 dated 14-7-1997. The Order of Reference reads as under :

"Whether the demand of Dhanbad Colliery Karmachari Sangh (B.M.S.) on the management of Begunia Project of M/s. Bharat Coking Coal Ltd., for regularisation of S/Shri Somnath Ghosh, Surendra Pandey, Krishna Thakur as Pit Munshis and Sri Swarup Das as Magazine Clerk, is legal and justified? If so, to what relief are the workmen entitled and from which date?"

2. That, the parties to the above mentioned Dispute, discussed and decided for settlement of the aforementioned dispute outside the Tribunal on the Terms and Conditions, mentioned hereunder :

1. (i) That, Sri Somnath Ghosh, S.D.L. Mazdoor, Cat-I will be regularised as Telecom. Helper in Cat-II with immediate effect ;
- (ii) That, Sri Surendra Pandey General Mazdoor, Cat-I, will be regularised as Greaser Helper in Excavation Grade 'E' and will be posted at NLOCP with immediate effect ;
- (iii) Sri Krishna Thakur, S.D.L. Mazdoor, Cat-I will be regularised as Elec. Helper in Cat-II with immediate effect ;
- (iv) That, Sri Swarup Das, General Mazdoor Cat-I, will be regularised as Lathe Helper in Cat-II and will be transferred to Area Workshop with immediate effect.

2. That, no further and/or any claim will be made either by the above named workmen or the Union involved in the instant Ref. at any forum and at any point of time.

That, the humble petitioners pray for disposal of the instant Ref. treating this settlement as a part of the Award.

The Parties, shall remain, as duty bound, ever grateful for this kind act.

Dated: 04-07-1998.

Place : Begunia Project.

Representing Union

- (1) L.S. Parsad, Area President, DCKS
- (2) G.C. Chatterji, Asst. Secy. DCKS.
- (1) Somnath Ghosh
- (2) Krishna Thakur
- (3) Surender Pandey
- (4) Swarup Dass

Representing Management :

- (1) P. P. Singh, G.M. c/v Area
- (2) D. Bhattacharjee, P.M.
- (3) R.P. Jadav Dy. P.M.

WITNESSES :

S. S. SINHA, GPO; Begunia

नई दिल्ली, 3 अगस्त, 1998

का.प्र. 1695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, मुम्बई, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-98 को प्राप्त हुआ था।

[सं. एल.-12011/64/96-माई.प्रार. (बी-II)]

सी. गंगाधरन, डी.क. अधिकारी

New Delhi, the 3rd August, 1998

S.O. 1695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Mumbai as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of India and their workman which was received by the Central Government on 31-7-1998.

[No. L-12011/64/96-IR (B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.
Reference No CGIT-2/51 of 1997

Employers in relation to the management of Bank of India

AND

Their Workmen.

APPEARANCES :

For the Employer—Mr. L. L. D'souza Representative.
For the Workmen—Mr. P. G. Naniwadekar, Representative.

Mumbai, the 14th July, 1998

AWARD

The Government of India, Ministry of Labour by its Order No. L-12011/64/96-IR (B-II) dated 22-9-97, had referred to the following industrial dispute for adjudication :—

“(1) Whether the action of the management of BOI in not effecting appointment as Head Cashier, Category 'E' to Shri Uhas C. Kulkarni, Rajan S. Choudhary and Gajendra S. Khobra all Head Cashier, Category 'C' employees from Alibagh Region is justified or not? If not, to what relief the workmen entitled to?”

“(2) Whether the Bank of India has violated Section 25 (T) of I. D. Act, 1947 by cancelling appointment orders as category 'E' in respect of above three employees?”

2. The Bank of India Workers Organisation by their Statement of Claim (Exhibit 6) contended that the workers concerned in the dispute were working as a Head Cashier Category 'C' of the respective Branches. In September '09 the Zonal Manager, Bombay Metropolitan Zone, Personnel Department circulated a notice addressed to all branch manager in Bombay Metropolitan Zone, Bombay South Zone, Bombay North Zone including Alibagh Thane Region for selection to 'E' category cashier at certain branches. They were to be selected from existing 'C' category cashiers.

3. The Organisation pleaded that these three workmen applied for the post and were selected. But they were not immediately relieved. Later on they were informed by the Zonal Manager, Bombay Metropolitan Zone by his letter dated 11-10-95 that their selection cashier category 'E' has since been cancelled. It is submitted that this action of the management is unjustified.

4. The Organisation pleaded that as per the Bipartite Settlement and Desai Award by getting the category 'E' they were entitled to the Special Allowance which they are loosing. It is averred that the bank may be directed to give them the Category 'E' and also the monetary loss which they have accrued. It is further pleaded that the management had practiced Unfair Labour Practice and necessary action against them should be taken.

5. The management resisted the claim by the Written Statement (Exhibit-10). It is averred that the dispute is misconceived and untenable and should be rejected in limine.

It is pleaded that on 3rd June '88 a Memorandum of Understanding was signed between the bank and authorised representative of majority union. As per that Memorandum the selection of the Cashier 'E' was to be made. The bank inadvertently issued a circular and started the process of selection and wrongly selected seven candidates out of the zone. These three candidates are among those even candidates. As the selection was not as per the Memorandum of Understanding the bank reviewed its order and cancelled the same. It is submitted that it has not acted mala fide and had not practiced Unfair Labour Practice.

6. The management denied all other contentions of the Organisation and submitted that under such circumstances the reference may be answered in their favour.

7. The union filed a rejoinder at Exhibit-14. It reiterated its claim and denied the contention taken in the Written Statement which are contrary to their claim. It is submitted that the bank had not committed any error while calling the application for the post as the Memorandum of Understanding dated 3-6-88 clearly provides that post of cashier category 'E' should be filled through cashier Category 'C'. The bank followed the existing practice. It is submitted that the bank's action of applying the provisions of Memorandum of Understanding dated 28-9-95 to the selection of cashiers prior to this date is illegal. It is averred that under such circumstances the reference may be answered in favour of the organisation.

8. The Organisation had given an application (Exhibit-23) contending that one of the workman Rajan S. Choudhary by his letter informed the organisation that he does not want to proceed with the reference. The Organisation therefore prayed that the aggrieved employee may be permitted to withdraw his claim under reference before the Tribunal. The management had no objection to do so.

9. The issue and my findings thereon are as follows :

Issues	Findings
1. Whether the action of the management of Bank of India in not effecting appointment as a Head Cashier (Cat-E) of Shri Uhas G. Kulkarni, Rajan S. Choudhary, and Gajendra S. Khobra of Head Cashier, Category 'C' employees from Alibagh region is justified or not?	Yes, justified.
2. If not, what relief the workman entitled to?	Does not survive.
3. Whether the Bank of India, has violated Section 25 (T) of the Industrial Disputes Act, 1947 by cancelling appointment orders as category (E) in respect of above three employees?	No
4. If yes, what relief the workman are entitled to	Does not survive.

REASONS

10. It is not in dispute that the bank invited applications for the post of 'E' category cashier by their notice dated 15-9-94. These posts were to be filled from 'C' category cashier only. The workmen were working in Category 'C' cashier. They applied for the posts. Their applications were perused. They were informed that they are selected for the category Cashier 'E' Kulkarni was posted as 'E' category Cashier at Churchgate Branch. He accepted the posting on 21-11-94. It is not in dispute that these workmen were never relieved but on the contrary they were informed by the concerned branch managers that their selection is cancelled in view of the provisions of the Memorandum of Understanding between the bank and the Bank of India Staff Union. Kulkarni affirms that it was as per the Memorandum of Understanding dated 28-9-95. he was not relieved but so far as the letter which cancelled his selection does not refer to this date. It only states that the M.O.U. reached between the bank and the majority union. In the cross examination Kulkarni accepts the position of reaching of the M.O.U. between the bank and the majority union on 3-6-88. He nor his union ever proceeded against the said

Memorandum of Understanding. He denied the suggestion that his appointment was cancelled as per the provisions of the Memorandum of Understanding.

11. Dayaneshwar S. Mandrekar (Exhibit-25) affirmed that the applications were invited from the cashier category 'C' wrongly and when they came to know that they had committed error they sent these letters of cancellation of the selection. He affirmed that Alibagh and Panji regions were next to Mumbai zone only for administrative purposes and they have their own selection area prevailing on the past practice. He affirmed that for the purposes of promotions or assignment of duties carrying special allowance in the cash department of Alibagh and Panji regions were always considered as separate selection areas and employees working in the city of Bombay and Thane were not eligible to apply or participate in the selection process for promotions or for duties attracting Special allowance in Alibagh and Panji regions and vice-versa. He also produced the circulars alongwith Exhibit-20/6, showing that circular was issued by Raigad erstwhile Alibagh region calling for application for the post of head cashier Category 'E' at Khopoli Panvel from the existing clerk, cashier, category 'C' working in Alibagh region only. There is no cross-examination in respect of this assertion. There are other documents which are produced alongwith Exhibit-20 which clearly shows that Alibagh and Goa are different regions for the promotions. The employees working there were not to be considered for the promotions in Bombay region and Thane. Therefore the case which is made out by the management that irregularity which was committed by issuing the circular and calling the application was cured by them when it came to their notice. I do not find any violation of law by doing so.

12. It is rightly argued on behalf of the management if they would not have corrected this mistake then the employees from Mumbai Region and Thane would have been effected. They would have raised the Industrial Dispute. Nothing is brought on the record to show that the action of the management which they claimed to have taken as per the Memorandum of Understanding is illegal. These workmen were informed that their selection is being cancelled in view of the terms of the Memorandum of Understanding. I find no irregularity in the same. I do not find anything on the record for coming to the conclusion that the management had practised Unfair Labour Practice. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

1. The reference in respect of Rajan S. Choudhary is disposed off for want of prosecution.
2. The action of the management of Bank of India in not effecting appointment of Head Cashiers Category 'E' of Shri Ujhas C. Kulkarni and Galendra S. Khobre of Head Cashier, Category 'C' employees from Alibagh Region is justified.
3. The Bank of India had not violated Section 25 (1) of the Industrial Disputes Act of 1947 by cancelling appointment orders as Category 'E' in respect of the above employees.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 अगस्त, 1998

का.पा. 1696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-98 को प्राप्त हुआ था।

[सं. एन-12012/426/96-आई धार (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 6th August, 1998.

S.O. 1696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947, the Central Government hereby publishes the award of the Industrial Tribunal, Patna as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 5-8-98.

[No. L-12012/426/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 4(c) of 1998

Management of UCO Bank of India, Patna and their workman represented by the State Secretary, UCO Bank Employees Association, Patna.

For the Management : Shri C. M. Maniktala, Dy. Chief Officer (Law), UCO Bank Zonal Office, Patna.

For the Workman : Sri B. Prasad, State Secretary, UCO Bank Employees Association, Patna.

PRESENT :

Sri Raja Ram Singh, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 29th July, 1998

By adjudication order No. L-12012/426/96-IR(B-II) dated 20-1-1998 the Central Government (Government of India) in the Ministry of Labour, New Delhi referred u/s 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter to be referred as the 'Act') the following dispute between the Management of UCO Bank of India, Patna and their workmen represented by the State Secretary, UCO Bank Employees Association, Patna for adjudication :

"Whether the action of the Management of Zonal Manager, UCO Bank, Patna in terminating the services of Sri Arbind Kumar Singh w.e.f. 29-4-1997 is legal and justified? If not, to what relief the said workman is entitled and from what date?"

2. After receipt of the adjudication order the reference was registered and parties were directed to appear in this Tribunal. Both parties appeared and written statement on behalf of the workman was filed. Copy of the written statement filed on behalf of the workman was served on the Management and the Management filed its written statement. Thereafter a rejoinder was filed on behalf of the workman to the comments made by the Management. Documents and list of witnesses were filed on behalf of the workman as well as by the Management. Thereafter date was fixed for evidence and two witnesses were examined on behalf of the Management and three documents were adduced in the evidence on behalf of the Management which were marked Exts. 1 to 3. On behalf of the workman one witness was examined and six documents were adduced in the evidence which were marked Exts. A to D, E series and F. Thereafter arguments were heard on behalf of both parties.

3. The case of the workman as mentioned in the written statement filed on his behalf may be narrated, in short, as follows:—

The workman Arbind Kumar Singh was orally appointed by the Management of UCO Bank, Tarapur Branch w.e.f. 18-6-1990 to discharge the duties of a peon.

After appointment the workman discharged the following duties :

- (i) Taking out ledger, registers from the Almirah and putting the same on tables, counters.
- (ii) Carrying token book, scroll book from Cash Department to Accounts Department and vice-versa.

(iii) Posting of Mails to Post Office.

(iv) Distribution of Bank's letters to customers through Peon Books.

(v) Cleaning tables, chairs, of staff and its customers and various other sundry jobs.

(vi) Serving water to the members of staff and its customers and various other sundry jobs.

The workman used to work from 10 A.M. to 6 P.M. and on some occasions even beyond that period regularly. The workman requested for regularisation as a peon under Bank's subordinate cadre but no positive step was taken by the Management. So on the request of the workman the union raised the industrial dispute before the Assistant Labour Commissioner (Central), Patna who after receiving the dispute intervened in the matter, held conciliation proceedings on various dates and tried to settle the dispute but the conciliation ended in failure and the failure report was sent to the Ministry of Labour, Government of India, New Delhi. All of a sudden on 29-4-1997 the workman was stopped from his work and he was instructed not to perform his duties. The matter of termination of the workman by the Management was reported to the Ministry. Thereafter the Central Government in the Ministry of Labour referred the dispute for adjudication. The workman was initially paid wages at the rate of Rs. 10 which was subsequently raised to Rs. 15, Rs. 30, Rs. 41 per day. The workman was not paid wages for Sunday/Holidays. The workman worked for six years continuously. So the claim has been made for reinstatement from 29-4-1997 on setting aside the termination order of the Management in respect of the workman Arvind Kumar Singh.

4. A written statement on behalf of the UCO Bank (Hereinafter to be referred as 'the Management') was filed in which it was alleged, inter alia, that workman was engaged by the Manager of UCO Bank, Tarapur Branch on a casual basis for performing certain contingent nature of work who had no authority to engage. At no time approval to engagement or payment of wages was obtained from the competent authority. So it has been denied that the workman was appointed to discharge duties of peon and his appointment was against the permanent vacancy. It has been alleged that the claimant is not a workman under the meaning of Industrial Disputes Act, 1947. Although it has not been specifically mentioned in the written statement filed on behalf of the Management that the workman was terminated, but there is no denial that workman was terminated on 29-4-1997 and from the allegations made in the written statement it becomes clear that he was disengaged. Thus according to the Management the claimant was not a workman under the Industrial Disputes Act, rather, a casual worker of contingent nature and he was disengaged on the direction of the higher authority.

5. A petition by way of rejoinder was filed on behalf of the workman to the Management's written statement dated 23-2-1998. It has been alleged that the workman was not concerned who was the competent authority and who was not in matters of his appointment/engagement for doing Bank's job. The fact remained that the concerned workman was appointed for the Bank's job w.e.f. 18-6-1990 as temporary peon and was paid daily wages through vouchers. The workman was a workman within the meaning of the Act. Any consideration regarding regular or irregular, legal or illegal or appointment without following the procedure under the Rules is foreign to the definition of a workman in the Act.

6. Now the point for determination arises whether the termination of the workman was legal and justified.

7. W.W. 1 Arvind Kumar Singh is workman himself. He has testified his case in his evidence. He has stated that he was working at Tarapur Branch of UCO Bank. He worked since 18-6-1990 till 28-4-1997. He worked from 10.00 A.M. to 6 P.M. He used to perform the duty to open the Almirah to take out the ledger and register from the Almirah. He used to go post office for posting mail and perform other similar nature of work. He performed duties continuously for more than 240 days in a calendar year for many years. He was terminated on 29-4-1997. He was not served any notice for retrenchment or wages in lieu of notice. He was not paid retrenchment compensation. He

was getting Rs. 77 per day as his wages at the last. In the cross-examination the Management has not challenged his statement regarding his termination. He has admitted that no letter of appointment was given to him by the Bank. So from the evidence of W.W. 1 it appears that the workman worked in Tarapur Branch of UCO Bank since 18-6-1990 till 28-4-1997 and performed various functions which were performed by a peon and he was getting wages at the rate of Rs. 77 per day at the time of termination.

8. M.W. 1 R. K. Sharma, Assistant Chief Officer (Personnel Department) of UCO Bank, Zonal Office stated in his evidence that he has been posted at Patna since one year. He has stated that a circular was issued by the Head Office of UCO Bank that casual labour should be disengaged. He has further stated that again a circular was issued directing the Branches to discontinue any unauthorised engagement of casual labour. Again a circular was issued by the Zonal Office, Patna directing the branches in respect of unauthorised engagement of casual labourers and immediate disengagement. He has stated that Arvind Kumar Singh was not issued any appointment letter. He was performing contingent nature of work for serving water, tea etc. He did not work continuously. In the cross-examination he has stated that he did not know the concerned workman. He learnt about him from the record and the concerned Officer. However from his evidence it appears that the workman worked in Tarapur Branch of UCO Bank as casual labour. However he came to know about the workman only through record. He was not personally concerned in Tarapur Branch of UCO Bank.

9. M.W. 2 D. J. Shukla is Branch Manager, Tarapur Branch of UCO Bank. In his evidence he has stated that he was working at Tarapur Branch of UCO Bank since 28-10-1996 as Branch Manager, Arvind Kumar Singh was working since 30-6-1990. He joined on 28-10-1996. He has stated that Arvind Kumar Singh was working as a water man. He used to bring water, tea and bottle and breakfast of the staff. He used to come at 10.30 A.M. in the Branch and he used to go at 3.00 P.M. He has stated that Bank is running in loss. So from his evidence it appears that the workman was working in the Branch since 30-6-90. In the cross-examination he has stated that he was terminated on 30-4-1997. In the cross-examination he admitted that no notice was served or wages in lieu of notice was paid to him. He has admitted that he was getting Rs. 77 per day as wages. He has stated that he worked continuously since 28-10-1996 till 30-4-1997 during his period. He has proved some documents which have been marked as exhibits. So from his evidence it appears that the workman was working in the Bank as casual labour.

10. From Ext. D it appears that workman worked 160 days in 1990. He worked 291 days in 1991. He worked 286 days in 1992. He worked 282 days in 1993. He worked 142 days till 25-6-1994. These are the photo copies of the documents written by the Manager, Tarapur Branch sent to the Dy Chief Officer (Personnel) Zonal Office, Patna. These documents are the list of the days on which the workman actually performed the duty during the relevant year. From those documents it appears that he was engaged by the Manager of Tarapur Branch on daily wages as casual worker.

11. So it has been specifically established that the workman was daily rated casual worker and was engaged on 18-6-1990 and performed his duties till 29-4-1997. Although according to the Management he was a casual worker on daily wages but he was a workman within the meaning of section 2(s) of the Act. This is the settled principle of law. There is no dispute on this point. M.W. 2 himself in his cross-examination has admitted that he worked continuously since 28-10-1996 till 30-4-1997 during his period. He has stated in his evidence that Arvind Kumar Singh was working since 18-6-1990 before his joining. Under such circumstances there is no reason to disbelieve the statement of W.W. 1 that he worked continuously as a daily worker since 18-6-1990 till 28-4-1997. This fact has not been challenged. W.W. 1 has stated in his evidence that he performed his duties continuously for many years. This fact has not been challenged in the cross-examination by the Management. So there is no reason to disbelieve that the workman worked more than 240 days in a 12 calendar months prior to date of termination i.e. 29-4-1997.

12. Under such circumstances the workman was employed in the Banking industry of the Management who had been in continuous service for more than one year under the employer. So he shall not be retrenched by the employer u/s 25F of the Act until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette).

The termination of the workman amounts to retrenchment u/s 2(oo) of the Act. So the retrenchment of the workman was in violation of the provisions of Section 25-F of the Act. It has not been claimed on behalf of the Management that the provisions of Section 25-F were complied with before retrenchment of the workman, rather, MW-2 has clearly admitted neither notice was served on the workman nor wages in lieu of notice was paid to him as required which is condition precedent to the retrenchment u/s 25-F(a) of the Act. He has also admitted that the workman was not paid retrenchment compensation as required under sub-clause (b) of Section 25-F of the Act. So the retrenchment of the workman is in violation of the provisions of Section 25-F of the Act.

13. Under such circumstances it is established that the termination of the workman which amounts to retrenchment was not legal and justified. Since the termination of the workman which amounts to retrenchment was not legal and justified so he is entitled to for reinstatement with full back wages. Reinstatement with full back wages is natural and consequential relief for illegal retrenchment.

14. The learned representative on behalf of the workman submitted that the relief of regularisation as a peon in the Bank subordinate cadre may also be allowed but relief of regularisation as claimed on behalf of the workman is beyond the terms of reference made to this Tribunal by the appropriate Government. The Hon'ble Supreme Court in the case of Pottery Mazdoor Panchayat Vs. The Perfect Pottery Co. Ltd. and another reported in A.I.R. 1979 S.C. P. 1356 approved the law initiated by the High Court that "the jurisdiction of the Tribunal in the industrial dispute is limited to the points specifically referred for its adjudication and to matters incidental thereto and that the Tribunal can not go beyond the terms of the reference made to it." So according to the law declared by the Hon'ble Supreme Court in the aforesaid case this Tribunal has no jurisdiction to decide the question of regularisation of the workman as a Peon in the Bank subordinate cadre. The question of regularisation is not a matter incidental to the termination of the workman, rather, regularisation is more wide. So the regularisation can not be said to be incidental to the termination. So the Tribunal is helpless to consider the claim of the workman regarding regularisation to the post of Peon in the Bank subordinate cadre. From the materials available on the record it can be argued that there are some materials justifying the regularisation of the workman as claimed by him, but it is beyond the scope of this Tribunal. So the claim of regularisation can not be allowed as claimed by the workman. However after reinstatement the workman may raise dispute regarding his regularisation. It should not be construed that by this Award the claim of regularisation of the workman has been denied.

15. This is my Award.

Dictated and corrected by me.

P.O., I.T., Patna

29-7-1998

RAJA RAM SINGH, Presiding Officer

2208 GI/98—5.

नई दिल्ली, 6 अगस्त, 1998

का.प्र. 1697—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-98 को प्राप्त हुआ था।

[सं. एल-12012/447/89आईआर (बी-II)/डी II(ए)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 6th August, 1998

S.O. 1697.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 5-8-1998.

[No. L-12012/447/89-IR (B-II)/D.II(A)]

C. GANGADHARAN, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय,
जबलपुर (म.प्र.)

डी.एन. दीक्षित

पीठासीन अधिकारी

प्र.क्रं. सीजीआईटी/एलसी/अर/108/90

श्री धनसिंह पुत्र श्री बाबूलाल,
मार्फत : श्री एस.डी. अष्टे, सेक्रेटरी,
एम.पी. बैंक कर्मचारी संघ,
यूनिट ग्वालियर,
नया बाजार औराहा,
ग्वालियर-474009 (म.प्र.)

—प्रार्थी

विषय

एरिया मैनेजर,

इंडियन बैंक, एरिया आफिस

ई-7/एम-196, अरेरा कालोनी,

भोपाल-46201

—प्रति प्रार्थी

अवार्ड

दिनांकित : 24-07-1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश सं. एल- 12012/447/89-डी 2-ए दिनांकित 18-4-90 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है :—

अनुसूची

"Whether the action of the management of the Indian Bank, Bhopal in not providing employment to Shri Dhan Singh S/o. Babu Lal (Designation) Peon after the 26-10-1986 (date of termination) i.e. whether his said termination, is justified ? If not, to what relief the workman is entitled for ?"

2. श्रमिक धनसिंह के अनुसार वह इंडियन बैंक, खालियर की शाखा में वर्ष 84 और 85 में कार्यरत था। उसे नियुक्ति पत्र नहीं दिया गया। दिनांक 1-10-84 से 30-9-85 तक उसने एक वर्ष में 202 दिन काम किया है। श्रमिक की सेवाएं समाप्त करने के पश्चात् इसी पद पर रामनाथ को नियुक्त किया गया है। श्रमिक की सेवाएं बिना नोटिस और कारण के दिनांक 26-10-85 से समाप्त की गई है। श्रमिक को सेवा समाप्ति का आदेश भी नहीं दिया गया है। श्रमिक चाहता है कि उसे पुनः सेवा में लिया जाये और दिनांक 26-10-85 से अभी तक उसे वेतन और दूसरे भत्ते दिये जायें। श्रमिक को 15-9-84 से 25-10-85 की अवधि में पूरा वेतन नहीं मिला। इस वेतन की मांग भी श्रमिक ने की है।

3. प्रबंधन के अनुसार श्रमिक को लीव वेकेंसी में थोड़े-थोड़े दिन के लिये कई बार अस्थायी रूप से रखा गया था, इस कारण श्रमिक को नियुक्ति पत्र नहीं दिया गया। श्रमिक ने बैंक की सेवा लगातार नहीं की। श्रमिक की सेवायें अस्थायी पद पर नहीं थी। श्रमिक ने इस लीव वेकेंसी में एक वर्ष में कभी भी 240 दिन काम नहीं किया है। श्रमिक ने नवम्बर, 84 से अक्टूबर, 85 तक केवल 201 दिन कई टुकड़ों से काम किया है। इसके अतिरिक्त प्रतिप्राप्ति बैंक के नियमों के अनुसार श्रमिक का नाम रोजगार कार्यालय से आना चाहिये था। श्रमिक ने जो सूचना रोजगार कार्यालय में दी तथा जो सूचना प्रतिप्राप्ति बैंक को दी, उनमें झंझोर विरोधाभास उसकी जन्म तिथि और शैक्षणिक योग्यता में है। रोजगार कार्यालय ने श्रमिक का नाम नहीं भेजा। इस कारण श्रमिक को लीव वेकेंसी में रखना बन्द किया गया। श्रमिक ने कौजुअल लेबर के रूप में थोड़े-थोड़े दिन काम किया है। प्रबंधन चाहता है कि श्रमिक का आवेदन मारहीन होने से निरस्त किया जाये।

4. श्रमिक ने अपने शपथ-पत्र में स्वीकार किया है कि उसने एक वर्ष में 211 दिन से ज्यादा कार्य नहीं किया है। बैंक की ओर से श्री गोविन्द सिंह ब्रांच मैनेजर ने कथन किये हैं और बताया है कि श्रमिक ने एक वर्ष में कभी भी 240 दिन काम नहीं किया है। इस प्रकार श्रमिक ने किसी भी वर्ष में 240 दिन काम नहीं किया है।

5. श्रमिक के अनुसार प्राप्ति ने नियमित कर्मचारी के छुट्टी जाने पर उसके स्थान पर कार्य किया। श्रमिक ने किसी रिक्त पद में कार्य नहीं किया। श्रमिक ने किसी स्थाई पद पर भी कार्य नहीं किया। जब भी कर्मचारी छुट्टी गया इस छुट्टी की अवधि में श्रमिक ने कार्य किया है ऐसी स्थिति में श्रमिक को न तो नियुक्ति पत्र की पात्रता है और न ही सेवा से पृथक् करने के आदेश की भी पात्रता नहीं है।

6. माननीय उच्चतम न्या. ने हिमांशु कुमार विद्यार्थी विरुद्ध बिहार शासन के निर्णय में जो 1997(2) मध्य प्रवेश बीकली नोट नं. 122 में मुद्रित है, यह प्रतिपादित किया है कि धारा 25-एफ औद्योगिक विवाद अधिनियम, 1947 के अन्तर्गत दैनिक वेतन मजदूरी श्रमिक जो आवश्यकता के आधार पर नियोजित होते हैं, की नियुक्ति किसी पद पर नियुक्ति नहीं है इस प्रकार के श्रमिक की छटनी धारा 25-एफ के अन्तर्गत ही गई छटनी की परिभाषा में नहीं आती।

7. पंजाब इलेक्ट्रिक बोर्ड विरुद्ध पीठासीन अधिकारी, लेबरकोर्ट के प्रकरण में जो 1997-एलएलआर-पृष्ठ-541 में मुद्रित है, माननीय न्यायमूर्ति ने यह प्रतिपादित किया है कि धारा 25-एफ औद्योगिक विवाद अधिनियम, 1947 का लाभ प्राप्त करने के लिए 240 दिन काम करना प्रथम शर्त है।

8. श्रमिक ने एक कार्य वर्ष में लगातार 240 दिन कार्य नहीं किया है। ऐसी स्थिति में वह धारा 25-एफ का लाभ प्राप्त नहीं कर सका।

9. श्रमिक के चाल-चलन के संबंध में यह उल्लेख करना आवश्यक है कि उसने बैंक में जो आवेदन दिया, उसमें अपनी जन्मतिथि 7-7-58 और शैक्षणिक योग्यता 7वीं कक्षा पास बताई। श्रमिक ने इस आशय के प्रमाण-पत्र भी बैंक में दिये। इसके विपरीत श्रमिक ने रोजगार कार्यालय खालियर में पंजीयन के समय जो आवेदन दिया, उसमें अपनी जन्म-तिथि 7-7-52 और शैक्षणिक योग्यता 8वीं उत्तीर्ण बतलाई। इस प्रकार प्राप्ति ने जानबूझकर बैंक में नौकरी पाने के लिए असत्य जानकारी दी। इस जानकारी के फलस्वरूप श्रमिक को लीव वेकेंसी में काम के लिए बैंक ने रखा। रोजगार कार्यालय ने जब श्रमिक का काम नहीं भेजा और यह असत्य बातें बैंक के ध्यान में आईं तो उसे लीव वेकेंसी में रखना बन्द कर दिया। इस प्रकार बैंक ने इस कारण श्रमिक को लीव वेकेंसी का कार्य देना बन्द किया, क्योंकि उसने बैंक को असत्य जानकारी दी थी।

10. श्रमिक को लीव वेकेंसी पर काम में रखा जाता था। श्रमिक का नाम जब रोजगार कार्यालय ने नहीं भेजा तथा जब यह ज्ञात हो गया कि श्रमिक ने असत्य कथन दिए हैं तो उसे बैंक ने काम देना बन्द किया। इसका निष्कर्ष यह नहीं है कि श्रमिक की सेवाएं समाप्त की गई। बैंक के द्वारा अपनाई गई प्रक्रिया विधिवत है और इसकी पुष्टि की जाती है।

11. अवाई दिया जाता है कि श्रमिक कोई सहायता पाने का अधिकारी नहीं है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

12. नियमानुसार अवाई की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डी. एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 6 अगस्त, 1998

का.आ. 1698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 5-8-98 को प्राप्त हुआ था।

[सं. एल-12012/449/95-आई.आर. (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 6th August, 1998

S.O. 1698.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 5-8-1998.

[No. L-12012/449/95-IR (B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 4 of 1997

PARTIES :

Employers in relation to the management of Bank of India

AND

Their workmen.

PRESENT :

Mr. Justice A. K. Chakravarty, Presiding Officer.

APPEARANCE :

On behalf of Management—Mr. J. B. Gomes, Chief Officer, Industrial Law Department of the Bank.

On behalf of Workmen—Mr. R. Chattopadhyay, Member of Law Sub-Committee of Bank Employees' Federation (WB).

STATE : West Bengal

INDUSTRY : Banking

AWARD

By Order No. L-12012/449/95-IR (B-II) dated 10-2-1997 the Central Government in exercise of its powers under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of India not granting annual increment to Shri Mukul Ghosh due on 1-11-90 and giving annual increment with a change date on 1-10-91 is justified? If not, what relief the workman is entitled to?"

2. Instant dispute has arisen at the instance of the Bank of India Employees' Union (union in short) for not granting annual increment to the concerned workman Mukul Ghosh on the date claimed by the union.

3. Union's case, in short, is that the concerned workman Mukul Ghosh was appointed on 7th November, 1978 in the subordinate cadre of the Bank of India (Bank in short). Thereafter, on each succeeding anniversary date of his

service he got his annual increment upto 1982 as per terms of his employment. In terms of the bipartite settlement dated 8th September, 1983 the date of increment was to accrue on the first day of the month on which it was to fall due. Shri Ghosh obtained his next annual increment on 1st of November, 1983. In January, 1984 applications were invited from the staffs belonging to the subordinate cadre for selection of personnel for promotion to clerical cadre. He having qualified himself in the test, the management of the Bank offered him appointment as a Clerk with effect from 15 October, 1984 on the terms and conditions set forth in the said offer. The concerned workman accepted the offer on 22nd October, 1984 and on such acceptance, he was appointed as a Clerk from 15th October, 1984. Regarding his date of increment in the clerical cadre, it remained unchanged as accruing on the 1st of November each year on the basis of the promotion policy. He obtained his last annual increment in the subordinate cadre on the 1st of November, 1983 and thereafter on promotion in the clerical cadre he was granted increment on the 1st November from 1984 to 1989. Shri Ghosh having graduated, the Bank also granted him two additional increments in the scale with effect from 1st July, 1990. The Bank, however, stopped his next annual increment on 1st of November, 1990 and informed him subsequently that his next annual increment shall be granted on 1st October, 1991. The concerned workman has challenged this deferment of the date of annual increment for about 11 months from 1st November, 1990 to 1st October, 1991 as unwarranted, unlawful, unjustified and arbitrary and prayed for quashing the said order of deferment of increment and for its restoration to its due date i.e. 1st November, 1990 alongwith other consequential reliefs.

4. The management of the Bank is contesting the claim of the union by filing one written statement, wherein it is alleged that when the concerned workman was promoted from subordinate cadre to clerical cadre with effect from 15th October, 1984 his pay fixation was done in terms of memorandum of settlement dated 11th March, 1982 arrived at between the employer Bank and the Federation of Bank of India Staff Union which is the majority union in the employer Bank. In the fitment formula of the said settlement combination of 2/3 stages in the subordinate cadre pay scale was provided for fitment in the common stage in the clerical scale keeping the anniversary date of increment in the subordinate cadre unchanged. This provision, according to the management, having led to anomalous position in the subordinate cadre unchanged. This provision, accord of settlement dated 20th June, 1990 was arrived at between the management and the Federation of Bank of India Staff Union, wherein after making allowance for combination of several stages of the subordinate cadre scale for fitment in the clerical cadre scale, the date of increment was changed from the anniversary date of appointment to the anniversary date of promotion in the clerical cadre. The management has further alleged that the concerned workman had received additional increment on 1st November, 1984 in the clerical cadre only after 16 days of the promotion to the said cadre besides his higher fitment under the previous settlement dated 11th March, 1982. The disparity thus occurred in the fixation of pay on promotion was sought to be rectified by the subsequent settlement dated 20th June, 1990. The Bank also alleged that apart from Sastri Award and Desai Award, the employer Bank is also bound by the tripartite settlements and bipartite settlements made between the employer Bank and the Federation of Bank of India Staff Union which is the majority union in the Bank. The Bank accordingly pleaded for got restoring an anomalous situation which had to be set right by the subsequent bipartite settlement dated 20th June, 1990. The Bank accordingly prayed for dismissal of the case of the union.

5. Heard the representatives of both sides.

6. Both sides produced certain documents and examined one witness each in support of their respective cases.

7. The concerned workman who was examined as WW-1 in this case stated in his evidence that he was not served with any notice by the management before stopping his annual increment and that the deferment of his date of increment was not done on the basis of any disciplinary proceeding. He also stated that he is a member of the Bank of India Employees Union and he has got nothing to do with the majority union, namely, Federation of

Bank of India Staff Union. He, however, admitted that he will accept any benefit of the settlement arrived at between the Bank and the majority union only in so far as that is beneficial to his service.

8. One Sujit Kumar Ghosh was examined on behalf of the management as MW-1. He admitted that the normal date of increment of the concerned workman was 1st of November, 1990 and that as per circular his date of joining was shifted to his date of promotion. He further stated that the terms of settlement are binding on all the staffs irrespective of the union to which they belong and that to remove the anomaly of junior staff getting higher pay than this settlement was made in the interest of the staffs. He, however, denied that the vested right of the workman to get his increment in due date i.e. on 1-11-1990 was taken away by changing date of annual increment as per order (Ext. M-1).

9. On examination of the oral and documentary evidence on record it appears that initially from his joining the service as subordinate staff, the concerned workman was getting his annual increment on the 7th November on each succeeding year till 1982. There is also no dispute that that date of increment was changed to 1st November from 1983 as a result of the bipartite settlement and thus he obtained his last increment in the subordinate cadre on 1st November, 1983 and thereafter on promotion to the clerical cadre he was getting his increment on the said date upto 1989. The grievance of the concerned workman in this case is that the management without any rhyme or reason and without also any prior intimation to him shifted the date of his increment from 1st of November, 1990 to 1st of October, 1991. The workman has produced the letter of the Bank dated 17-11-1990 Ext. W-2 to show that he was only informed on 17-11-1990 that his date of increment was changed. The management of the Bank, in justification for its above action, referred to the bipartite settlement entered into between the management of the Bank on one hand and the Federation of Bank of India Staff Union dated 20th June, 1990 (Ext. M-1) on the other. The representative of the management referred to paragraph 3 of the said settlement and pointed out that the parties to the settlement after reviewing the existing formula felt the need for revision of the same and agreed to have a settlement on the issue of fixation of pay scale and allowances etc. for the members of subordinate staff promoted to clerical cadre on or after 1st November, 1987.

10. Mr. Chattopadhyay, representative of the union challenged this settlement Ext. M-1 as not binding on the concerned workman as he belongs to a different union. I do not find any substance in this contention firstly because no such objection was taken in the written statement of the union and secondly because the Federation of the Bank of India Staff Union being admittedly the majority union, the other members of the staff who belong to different unions cannot deny to abide by the provisions of the settlement arrived at between that union and the management once they have accepted the benefit under any agreement between themselves.

11. Mr. Chattopadhyay, representative of the union next contended that the terms of the settlement of 1990 also does not give the management any right or authority to change the date of increment. According to him, the workman is only bound by the terms and conditions of letter of promotion dated 15-10-1984. He referred to paragraph 4 of the said letter which contains the following clause "You will draw future increment in the clerical cadre as on the anniversary date of your last increment as a member of the subordinate staff." He also pointed out that the question of compliance of the provisions of the Award/bipartite settlements and rules, regulations, orders etc. as provided in paragraph 8 of the said letter can only arise when that does not affect his right to draw future increment on the anniversary date of the last increment. He further pointed out with reference to paragraph 12 of the said letter that his right as given in the offer letter shall be in addition to any further right that may be given to him by the settlement between the management and the union. He further submitted that his right of getting increment on 1st November each year having ripened into a vested right, that cannot be taken away abruptly by the management except by way of any disciplinary action or under a valid law and that the settlement of 1990 to which

the management relies in justification of its action has no application in this case.

12. There cannot be any doubt that the right to receive increment by any workman on a particular date becomes a part of his service condition and that cannot be changed except in accordance with law. It is not the case of the management that the deferment of the date of increment was made by way of punishment on account of any proven misconduct on the part of the workman concerned. Secondly, as stated above, the offer letter itself having clearly stated that the date of increment shall not fall on the date of promotion but on the date as it was before, there cannot be any question of changing that date except by law. For this purpose my attention was drawn to the case of Municipal Corporation of Greater Bombay V. Kalpana, reported in 1989 Lab. I.C. 35 (AIR 1988 SC 2115) where it was stated that "While it may be true that the service conditions of employees may be modified retrospectively, no modification which would have effect of depriving them of their vested right can be made, except under a valid law." It is nobody's case that there is any legal provision for changing the date of increment of the workman. In that view of the matter, any subsequent settlement seeking to change such service condition of the workman affecting his vested right shall be of no consequence at all. In the instant case, apart from the above fact, the settlement of 1990 itself has made its provisions clearly inapplicable in respect of fixation of salary of those promotees to the clerical cadre from subordinate cadre prior to 1st November, 1987. The concerned workman having admittedly got his promotion on 15th October, 1984, no question of shifting of his date of increment on the basis of the settlement of 1990 can arise.

13. So, upon consideration of the relevant facts and circumstances, evidence on record and the position of law in the matter, I am of the opinion that the action of the management of Bank of India in not granting annual increment to Mukul Ghosh from 1-11-90 and giving annual increment with a changed date on 1-10-91 was not at all justified as it was arbitrary and illegal. The concerned workman accordingly shall be entitled to get his next annual increment after 1-11-1989 on 1-11-1990 and thereafter it shall become due on the 1st of November on each succeeding year, unless it is changed in due course. The concerned workman accordingly shall get all the consequential benefits as a result of the restoration of his original date of increment to 1-11-1990.

This is my Award.

Dated, Calcutta,

The 24th July, 1998

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 6 अगस्त, 1998

का.आ. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नेशनल इश्यूरेन्स कंपनी लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-98 को प्राप्त हुआ था।

[सं. एल-17012/35/94-आई.आर.बी.-II]

सी. गंगाधरन ईस्क अधिकारी

New Delhi, the 6th August, 1998

S.O. 1699.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Insurance Company Ltd., and their workman, which was received by the Central Government on 5-8-98.

[No. I-17012/35/94-IR (B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL
NADU, CHENNAI

Tuesday, the 16th day of June, 1998

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal

Industrial Dispute No. 197 of 1994

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the Management of National Insurance Co. Ltd., Madras).

BETWEEN :

The workman represented by :

The Regional Secretary,
Tamil Nadu General Insurance Employees,
Association,
Bharat Insurance Bldg. Annexe,
New No. 93, Mount Road, Madras-600 002.

AND

The Assistant General Manager,
National Insurance Company Ltd.,
Madras R. O., 190, Mount Road,
Madras-600 002.

REFERENCE :

Order No. 1-17012/35/94-IR (B.II), Ministry of Labour,
dated 8-11-94, Govt. of India, New Delhi.

This dispute coming on for final hearing on Friday, the 20th day of March, 1998, upon perusing the reference, claim, counter statements and all other material papers on record, upon hearing the arguments of Tvl. S. Shrinivas, V. Ajay Ghose & Purushothaman, Advocates appearing for the Union and of Thiru M. R. Raghavan, Advocate appearing for the respondent-management, and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This reference has been made for adjudication of the following issue :—

"Whether the action of the management of National Insurance Company Ltd., Madras in denying annual increments to Shri R. Krishnan, Security Guard w.e.f. 1-11-87 and other benefits is legal and justified? If not, what relief is the said workman entitled to?"

2. The main averments found in the claim statement filed by the petitioner-union are as follows :—The workman is economically very poor. As petitioner could not pursue with his studies, he became a contract labourer with the contractors "The Southern Security and Detective Services." The petitioner workman was deployed in the Regional Office of the respondent management situated at Madras as Security Guard w.e.f. 1-11-86 by the Contractors. But factually the control of petitioner was with the respondent management. Certificate dt. 12-5-89 has been issued by the contractor certifying that the petitioner workman was deployed with the respondent management from 1-11-86 to 30-4-89. Since 1-11-86 the petitioner workman has been employed with the respondent management without any leave. The petitioner workman was served with a letter dated 1-1-89 by the Principal employer that the principal employer had entered into a contract with the Contractor for engaging the services of the petitioner workman as Security Guard and that the said contract was terminated from 1-5-89. The petitioner workman's services were utilised temporarily from 1-5-89, to 31-5-89 directly by the Principal Employer for a remuneration of Rs. 1248.42. The petitioner workman had put in long hours of work, much

longer than the workmen under direct employment and he was denied all other attendant benefits which a workman under direct employment could get. The contract was renewed month after month under similar conditions depriving the petitioner workman of all the benefits which a permanent workman could get under similar circumstances and job conditions till 14-6-90. Regular appointment was given to petitioner workman on 15-6-90 by the respondent management as Security Guard, in pursuance of an interview and this appointment letter is in clear violation of the labour laws and Rationalisation scheme 1974 that the petitioner workman shall not be entitled to any benefits whatsoever for the petitioner workman's past temporary services. An industrial dispute was raised by the petitioner-union before the Asst. Labour Commissioner (Central-I), at the office of the Regional Labour Commissioner (Central). The respondent management refused to accept the contentions of the petitioner-union in spite of the fact that the public sector institution is clearly prohibited from engaging workmen through middlemen contractors and thus the conciliation ended in failure. The denial of annual increment to the petitioner workman w.e.f. 1-11-87 and other attendant benefits is illegal, contrary to labour jurisprudence, principles, and highly unjust. The Principal Employer Management is clearly prohibited from engaging workmen through contractors vide notification dt. 9-12-76 under Contract Labour (Regulation and abolition) Act, 1979 and as such the employment should be treated as employment under direct control of the Principal employer. The principal employer management has not produced any rules or regulation issued by the Apex Corporation viz., G.I.C. of India or by its Head Office governing appointment on contract basis or for resorting to adhoc appointments during conciliatory proceedings. Action of the management is clearly in violation of Art. 14 of the Constitution of India as the petitioner-workman was not paid the wages and other benefits which is payable to regular workman even though the petitioner workman was doing the same work. The petitioner prays to pass an award with costs directing the respondent management to grant annual increment and other attendant benefits to the petitioner-workman with retrospective effect from 1-11-87.

3. The main averments found in the counter statement filed by the respondent are as follows :—The dispute itself is not maintainable in law or on facts. The issue has been referred for adjudication without proper adjudication of the facts and circumstances of the case. The very dispute has been raised belatedly and hence the dispute is liable to be dismissed on the ground of laches. The petitioner-workman was engaged by a contractor viz., Southern Security and Detective Service, Madras-18. In pursuance of the contract, the said contractors were deputing Personnel as Security Guards at the Company's premises and the petitioner was one such person. The respondent did not have direct relationship with the concerned workman not had exercised any supervisory control whatsoever. There was no master servant relationship or employer employee relationship between the concerned workman and the company. The company did not have any disciplinary control over this workman. The contractor was paid a lumpsum by the Company every month. The workman was on the rolls of the said contractor and was receiving remuneration from the said contractors. The contractors merely supplied the Security Guards. The allegation that the Security Guard was engaged by the company is totally devoid of truth. The contractual agreement between respondent and Southern Security and Detective Services were terminated w.e.f. 1-5-89. Thereafter the workman was engaged by the company temporarily w.e.f. 1-5-89 on a month to month contract basis as there was no sanctioned post and was paid a consolidated sum for the services rendered by him during the month. The workman's services were rarely utilised on temporary basis and hence is not entitled to the benefits that are available to the permanent employees of the company. It is denied that the workman was continuously working in the company from 1-11-86 and hence the question of entitlement of annual increment w.e.f. 1-11-87 does not arise. Upon sanctioning of permanent posts for security guards in the company the workman concerned submitted application for Security Guard in the company. After an interview, the petitioner was offered appointment as 'security guard' by order dt. 15-6-90. The petitioner was appointed at a basic salary of Rs. 815/- per month in the subordinate

staff scale of Rs. 815-25-840-35-1260-40-1380-45-1470-50-1520 with other allowance as per rules. In the appointment order, it was specifically stipulated therein that the workman shall not be entitled to any backwages or difference of salary, continuity of service etc. for the period of his past temporary services in the company. The concerned workman agreed to and accepted the above terms and joined duty on 18-6-90. The workman cannot therefore raise any dispute of this nature now and is estopped from raising the same having already accepted the terms of appointment. The workman by an order dt. 15-6-90 was appointed as the employee of the company only on and from 18-6-90. Prior to that date there was no employer, employee relationship or master and servant relationship. The workman's claim for annual increment, leave, cost of uniform and stitching charges, cost of shoes, belts and washing allowance is unsustainable. Domiciliary medical benefits, ex-gratia and other benefits are also not payable to him. The claim made by the workman is not maintainable and it is belated. There had been no dispute regarding contractual employment between the Contractor and the Management of the company at any point of time when the contract entered into by the Company with M/s. Southern Security and Detective Services was in force. There was an employer-employee relationship during the said period. The consolidated sum was paid for temporary services of the workman each month. The workman is clearly estopped from challenging the terms of contractual temporary employment at this stage. Upon sanctioning of the permanent post in the company for Security Guards order of appointment was released the competent Authority. The respondent is not empowered to appoint any one unless the post is sanctioned by the General Insurance Corpn. of India only after the post was sanctioned the respondent company was enabled to offer permanent post of security guards on and from 1st June 1990. The petitioner workman cannot in law lay any claim for a permanent post which was not a sanctioned post. Hence the reference is not competent. In other offices of the respondent in India, similar arrangements had been made for taking up security measures under contractual/temporary employment terms and thereafter on sanctioning of permanent posts for security guards order of appointment were released appointing permanent security guards and all benefits admissible for the said post has been extended on and from the said date. It is denied that such appointment was in violation of Labour Laws and Rationalisation Scheme 1974. The workman was appointed only on 18-6-90 by the Company as Security Guard and all benefits has been extended to the workman on and from the said date. The company is not liable to pay any amount to the workman prior to the said date. There are no merits in the claim of the petitioner. The respondent prays to dismiss the claim petition.

6. One witness was examined on behalf of the petitioner. Exs. W-1 to W-4 have been marked. One witness was examined on behalf of the respondent management and Exs. M-1 and M-2 were marked.

7. The point for our consideration is—Whether the action of the management of National Insurance Company Ltd., Madras in denying annual increments to Shri R. Krishnan, Security Guard w.e.f. 1-11-87 and other benefits is legal and justified? If not, to what relief is the said workman entitled to?

8. The Point.—The petitioner was a contract labourer with a Contractor by name "Southern Security and Detective Services." Contractor deployed the workman in the Regional Office of the respondent at Madras as Security Guard w.e.f. 1-11-86. The control of the petitioner was with the respondent management. The petitioner was so deployed with the respondent management from 1-11-86 to 30-4-89. From 1-11-85, the workman has been deployed with the respondent management continuously without any leave. The workman's services were utilised from 1-5-89 to 31-5-89 directly by the Principal employer for a remuneration of Rs. 1,248.20. The workman had put in long hours of work much longer than workmen under the direct employ-

ment and that he was denied all other attendant benefits which workmen of direct employment could get. The contract of workmen was renewed month after month under similar conditions till 14-6-90. Regular appointment was given to the workman on 15-6-90 by the respondent management as Security Guard in pursuance of an interview. According to the petitioner, the appointment letter is in clear violation of labour laws and rationalisation scheme 1974 that the workman shall not be entitled to any benefits whatsoever for the workman's past temporary services. The petitioner-union raised dispute before the Asst. Commissioner of Labour wherein the respondent management refused to accept the contentions of the petitioner-union in spite of the fact that the public sector institutions are prohibited from engaging workmen through middlemen contractors and thus conciliation ended in failure. According to the petitioner-union the denial of annual increment to the workman w.e.f. 1-11-87 and other attendant benefits is illegal. The principal employer management is prohibited from engaging workmen through contractors vide notification dated 9-12-76 under Contract Labour (Regulation and Abolition) Act, 1970 and as such employment should be treated as an employment under direct control of the principal employment. The action of the respondent management is in violation of Art. 14 of the Constitution of India, as the workman was not paid wages and other benefits which is payable to regular workman even though the petitioner was doing the same work.

9. The contention of the respondent management is that the workman was engaged by a contractor with whom the respondent management has entered into a contract and as such the respondent did not have direct relationship with the workman nor had any supervisory control over him and there was no master servant relationship or employer employee relationship between the concerned workman and the company. The respondent has further contended that the workman was on the rolls of the said contractor and was receiving remuneration from the contractor and services of the workman was utilised purely on the temporary basis and hence he is not entitled to the benefits that are available to the permanent employees of the company.

10. The respondent management is a Govt. of India undertaking and the appropriate Government is the Central Government as far as the respondent management is concerned. By a notification dated 9-12-76 marked as Ex. W-4 the Central Government has prohibited employing contract labour on and from 1-3-1977 for sweeping, cleaning, dusting and watching of the buildings owned or occupied by establishments in respect of which the appropriate Govt. under the said act is the Central Government. There is no dispute that the respondent is a Central Government undertaking and Ex. W-4 notification dated 9-12-1976 is applicable to the management. Both the petitioner as well as the respondent management admitted that the workman concerned was engaged as Security Guard in the premises of the respondent management from 1-11-1986 through a contractor by name Southern Security & Detective Services, W-1 is the letter written by the petitioner-workman to the Principal employer. The concerned workman was appointed as regular employee of the respondent management from 15-6-1990. When the Central Government has specifically prohibited by a notification dated 9-12-1976 to employ contract labour for sweeping, cleaning, or watching of the buildings the respondent management has employed the workman as contract labourer in violation of the said notification. Under the Contract Labour (Regulation & Abolition) Act, 1970, a principal employer who engages contract labour should obtain a certificate of registration issued by the appropriate Government under the provisions of Sec 7 of the Contract Labour (Regulation and Abolition) Act, 1970. Similarly the contractor with whom the principal employer enters into a contract should also obtain a licence under Sec. 12 of the said Act. The workman can be employed as contract labour only through licensed contractors. Both these conditions should be complied with to engage workmen under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970. If one wishes to avail the provisions of the Act both these conditions are required to be fulfilled. Even if one of these conditions is not complied with, the provision of the Contract Labour (Regulation and Abolition) Act, 1970 would be held as violated. Therefore, in a situation wherein either of these two conditions is not satisfied, the position would be that

the workman employed by an intermediary would be deemed to have been employed by the Principal employer. The above principle has been mentioned in the judgement of a Division Bench of Hon'ble High Court of Gujarat reported in 1990 I LLN P 972, Food Corporation of India workers Union vs. Food Corporation of India & Ors.

"Having regard to the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 it is evident that :

- (i) the principal employer should obtain a certificate of registration and
- (ii) the workmen can be employed on contract labour only through licensed contractor. The certificate of registration required to be obtained by the principal employer issued by the appropriate Government under the provisions of S. 7 of the Act. The licence is to be obtained by the contractors under the provisions of S. 12 of the Act. The workmen can be employed as contract labour only through licensed contractors. Unless both these conditions are complied with, the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 would not be attracted. Both these conditions are required to be fulfilled, if one wishes to avail of the provisions of the Act. Even if one of the conditions is not complied with, the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 would not be attracted. Therefore, in a situation wherein either of these two conditions is not sustained, the position would be that a workman employed by an intermediary would be deemed to have been employed by the principal employer. From the facts of the case, and the legal position, it becomes clear that for certain periods the principal employer, i.e. the Food Corporation of India, did not possess the certificate of registration as required under the provisions of S. 7 of the Act. Similarly, the contractors through whom the workmen were engaged also did not possess licence issued under S. 12 of the Act by the "appropriate Government" for certain periods. Therefore, in relation to this period, the workmen can very well claim that workmen were directly employed by the principal employer i.e. Food Corporation of India."

In this case also the respondent management has not made any whisper that they have obtained a certificate of registration issued by the concerned authorities under the provisions of Sec. 7 of the Act, nor the said contractor has obtained the licence under Sec. 12 of the Act. In the absence of the certificate for registration for the respondent management, i.e. the principal employer, or a licence for the contractor, i.e. Southern Security & Detective Services, the workman is deemed to have been employed by the principal employer.

10. The respondent management has contended that since the post was not available the contract labour was engaged, and when the post was sanctioned, the same Security Guard was absorbed as per orders dt. 20-2-90 and 27-10-1989 which are marked as Ex. M.1 and M.2. When there was need for Security Guards even in 1986, the respondent management has not sanctioned posts for the above purposes and has gone for contract labour without obtaining the necessary certificate for registration. When the appropriate Government has prohibited engagement of contract labour as per Ex. W-4, notification, the respondent management has engaged contract labour that too without having certificate of registration and also licence for the contractor as contemplated under Sec. 7 and 12 of the Contract Labour (Regulation and Abolition) Act, 1970. Thus it could be seen that the respondent management has violated the Contract Labour (Regulation and Abolition) Act, 1970 itself by engaging concerned workman on contract basis. Therefore, the respondent management is liable to pay an increment from 1-11-1987 i.e. on completion of one year of service with other attendant benefits since the concerned workman is deemed to be under direct employment of the principal employer. Award passed. No costs.

Dated, this the 16th day of June 1998.

THIRU S. ASHOK KUMAR, Industrial Tribunal
WITNESSES EXAMINED

For Petitioner-workman :

W-W 1 : Thiru Natarajan.

For Respondent-management:

M.W. 1 : Thiru A. G. Gajapathy.

DOCUMENTS MARKED

For Petitioner-workman :

Ex. W-1/12-10-92 : Letter written by the petitioner workman to the Principal Employer (xerox copy).

Ex. W-2/30-6-94 : Conciliation failure report (xerox copy).

Ex. W-3/ : Increment General Principles (Officers and Supervisors) reg. increment as per the management's personal manual (xerox copy).

Ex. W-4/9-12-76 : Notification issued by the Central Government (xerox copy).

For Respondent-management :

Ex. M-1/27-10-89 : Communication from Head office to the Regional Office (xerox copy).

Ex. M-2/20-2-90 : Communication from Head office to the Regional Office (xerox copy).

I.T.

नई दिल्ली, 10 अगस्त, 1998

का.प्रा. 1700—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, पुणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-98 को प्राप्त हुआ था।

[सं. एल-12012/333/96—आईआर (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 10th August, 1998

S.O. 1700.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 10-8-1998.

[No. L-12012/333/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SMT. A. V. PALSULE, PRESIDING OFFICER, THIRD LABOUR COURT, PUNE

Ref. (IDA) No. 488/1997

Union Bank of India, Western Zone, Div. II, Pune.—First Party.

AND

Assistant Secretary, Union Bank Staff Association, Pune—Second Party.

AWARD

1. The Desk Officer, Govt. of India, Ministry of Labour New Delhi-110 001, has made this reference under Clause (d) of Sub sec. (1) and Sub sec. 2(a) of Sec. 10 of the I.D. Act 1947 (14 of 1947) between Union Bank of India and their workmen for adjudication over the following demands as specified in Schedule annexed thereto :—

“Whether the action of the management of Union Bank of India, in not crediting of annual privilege leave in the month of August, 1995 to the leave account of Shri P. H. Padwal, is in conformity with Para 13.17 of bipartite settlement dated 19-10-1966 ? If not to what relief the said workman is entitled ?”

2. Both the parties are present. They have settled the matter outside the court. Hence it is not necessary to proceed with the matter. Hence in view of Exh. 5, the reference is disposed of as settled out of court. No order as to costs.

Smt. A. V. PALSULE, Presiding Officer
Pune.

Dated : 07-03-1998.

नई दिल्ली, 30 जुलाई, 1998

का.आ. 1701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 33(अ) के साथ पठित धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक, कलकत्ता के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-7-1998 को प्राप्त हुआ था।

[संख्या एल-12025/1/98-आईआरबी-आई]

पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 30th July, 1998

S.O. 1701.—In pursuance of Section 17 read with Sec. 33(A) of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India, Calcutta and their workman, which was received by the Central Government on the 30-7-1998.

[No. L-12025/1/98-IRBI]

P. J. MICHAEL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

Misc. Application No. 1 of 1994

U/s 33A of the I.D. Act

(Arising out of Reference No. 29 of 1985)

PARTIES :

Shri Beramala Dass, General Secretary, State Bank Workers' Organisation (Bengal Circle), 42 Ripon Street, P.O. & P.S. Park Street, Calcutta-700016

.. Applicant

Vs.

1. The Deputy General Manager, Zonal Office, State Bank of India (Bengal Circle), Nagaland House, 11 & 13 Shakespeare Sarani, Calcutta-700071.

2. Officer-in-Charge, General Section, State Bank of India, Zonal Office, Nagaland House, 11 & 13 Shakespeare Sarani, Calcutta-700071.

.. Opp. Parties

PRESENT :

Mr. Justice A. K. Chakravarty .. Presiding Officer

APPEARANCE :

On behalf of Applicant—Mr. M. Mitra, Vice-President of the union.

On behalf of Opp. Party—Mr. M. Pattanayak, Officer of the Bank.

STATE : West Bengal. INDUSTRY : Banking.

AWARD

This is an application under section 33A of the Industrial Disputes Act, 1947 filed by one Beramala Dass claiming to be the General Secretary of the State Bank Workmen's Organisation against the Opp. Party State Bank of India.

2. When the case is called out today for examination of witness on behalf of the Applicant, none appears on his behalf nor any step was taken in this regard. The Opp. Party-Bank is represented by its Officer. On earlier occasions also the Applicant failed to examine its witness and in the process the case was adjourned from time to time. The case is a old one being of the year 1994.

3. In the aforesaid circumstances, the application under section 33A of the Industrial Disputes Act, 1947 stands dismissed for default.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer

Dated, Calcutta,
The 17th July, 1998.

नई दिल्ली, 3 अगस्त, 1998

का.आ. 1702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 17) की धारा के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे मुम्बई के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. II, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-98 को प्राप्त हुआ था।

[संख्या एल-41011/52/95-आई. आर. (बी. I)]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 3rd August, 1998

S.O. 1702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway, Mumbai and their workman, which was received by the Central Government on the 31-7-98.

[No. L-41011/52/95-IR(B-I)]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/14 of 1997

Employers in relation to the management of
Western Railway, Mumbai

AND

Their Workmen

APPEARANCES :

For the Employers : Mr. Suresh Kumar Advocate.

For the Workmen : Mr. M. B. Anchan Advocate.

2208 GI/98—6.

Mumbai, dated 16th July, 1998

AWARD

The Government of India, Ministry of Labour by its Order No. L-41011/52/95-IR (B.I.), dated 10-3-97, had referred to the following Industrial Dispute for adjudication.

“Whether the action of GM, Western Railway and Carriage Workshop Manager in not considering Shri S. G. Naik for selection of ELC-B from August 1989 and ignoring seniority is justified or not? What relief should not be granted to the workman?”

2. Paschim Railway Karmachari Parishad, Mumbai (herein after called as union) filed Statement of Claim at Exhibit-5. It is contended that S. G. Naik the workman was on deputation, to Iraq. When he as in Iraq selection of a Chargeman in RAC Group 'C' in the scale of Rs. 1400-2300 took place in 1989. After completion of the deputation he returned back on 31-5-90. It was noticed by him his junior Bhagwani Prasad was selected as a chargeman in 1989.

3. The workman moved an application to authorities to hold a supplementary selection for him. But it was not considered. In 1992, a regular selection process was carried out wherein he appeared alongwith failed candidate in the year 1989. It is unjust and illegal.

4. On 17-9-92 a panel of selected candidates was declared. His name did not find a place in it. It is averred that he had done very well in the written statement. It is therefore he was called for viva-voce. There also he had done satisfactorily but he was not given sufficient mark for seniority even though the others were given the same. It is because of that he was declared pass and his name was not included in the panel. It is averred that for all these reasons it may be declared that the action of the management in not pleading Naik on a panel which was declared on 17-9-92 in the scale of Rs. 1400-2300 (RP) is illegal and not justified and he may be place on it from the date his juniors were placed on it and he may be paid all the arrears alongwith other reliefs.

5. The management resisted the claim by the Written Statement (Exhibit-6). It is pleaded that Indian Railway is not an industry and Naik employees is not a workman under section 2 (S) of the Industrial Disputes Act of 1947. Under such circumstances the Tribunal has no jurisdiction to try and decide the reference.

6. It is submitted that as the employee was on deputation to foreign country, his case was considered as per railway boards letter dtd. 14-12-72 and E(NG) I 77.PMR.269 dtd 3-5-80. It is averred that under such circumstances there is no merit in the case of the employee that a supplementary selection should have been held for him.

7. The management pleaded that the selection pertains to promotion in Group 'C'. The electrical 'B' in the scale of Rs. 1400-2300 (RP) as the selection post and selection as required by Rule 219(g) of the IREM. It is pleaded that the selection was carried out as per the rule and the employee was not selected. It is submitted that in the selection of, the senior-

ity of a person play a very limited role because to implede for promotion the person is to secure minimum 60 per cent marks as explained in Rule 219(g). If the employee does not secure minimum 60 per cent marks he cannot be placed on the panel. It is averred that under such circumstances the employee has no case and the reference may be answered accordingly.

8. The union filed a rejoinder at Ex-7. It is submitted that initially the selection was held in 1989 and thereafter a supplementary test was carried out on 17-11-89. It is averred that in the year 1992 the workman was called for the interview alongwith the candidates who failed in 1989. It is pleaded that he was not given a proper marks for seniority. The union reiterated the case which they made out in the Statement of Claim.

9. The issues that fall for my consideration and my findings thereon are as follows :

Issues	Findings
1. Whether it is proved that the management did not consider Mr. Naik for selection to ELEB from August '89?	No
2. Whether it is proved that the management ignored the seniority of Mr. Naik at the time of selection ?	No.
3. Whether the Tribunal had jurisdiction to decide the reference.	Need not be answered in view of the findings of earlier two issues.
4. Whether the action of the General Manager, Western Railway and carriage workshop Manager in not considering Naik for selection to ELEB from August '89 and ignoring seniority is justified?	Action justified.
5. If not what relief the workman is entitled to?	Does not survive

REASONS

It is not in dispute that Naik the workman was on deputation to Iraq and returned back on 31-5-90. In his absence the selection for chageman RAC Group in the scale of 1400-2300 electrical department took place in 1989. One Bhagwan Singh who was junior to him was selected. It is also not in dispute that after returning back to India and joining the service the workman gave an application for holding a supplementary selection. But it was not carried out. It is admitted position that thereafter the selection was carried out in the year 1992. Naik in his cross-examination admits that it is a fact that from 1989-1992 there was no selection. That itself goes to show that Naik was considered for the selection.

11. Now it is to be seen whether the case which is made out by Naik for holding the supplementary selection is justified or not. There is a Railway

board's letter dtd. 14-12-72 and a letter dated 3-3-80 which speaks for selection of a person on deputation abroad. It is at Exhibit-6|1. It states "The panels should be finalised without waiting for the employees who are on deputation abroad. On return of the employee from abroad, if, it is found that anyone junior to him, has been promoted on the basis of a selection in which he was not called because of his being abroad he may be considered in the next selection and if selected, his seniority may be adjusted vis-a-vis his juniors. In case such an employee is declared outstanding in the next selection, he should be interpolated in the previous panel in accordance with the seniority and gradation in the subsequent selection." As the workman was on deputation to foreign country it was not necessary for the management to hold a supplementary selection as asked for by him.

12. Naik in categorical term affirms that in 1992 the selection was consisted of written tests, then viva-voce for the candidates who get through from the written tests. He was called for that interview. In the year 1992 no junior to him was selected. In a reference what is mentioned is that to consider that whether his seniority was ignored at the time of selection. Basically as no junior was selected it cannot be said that his seniority was ignored. Naik affirmed that it is not his case that the person who took his oral interview had given him less marks. The case which he affirmed is that he is given less mark in the seniority. According to him Mr. Lal who was senior by three years was allotted 12 marks in seniority while he was given six marks only. If he would have gone on pro-rata basis marks then he would have received 15 marks in seniority and would have been come in the panel. He further affirmed that the service record of Mataprasad D and Tiwari were had even though they were awarded more marks in the record of service than him.

13. Exhibit-9|1 is the assessment sheet of the workman for the year 1992. For seniority the marks are out of 15, Mataprasad D secured 15, one P. R. Tiwari secured 13, B. B. Lal secured 12 and Naik the workman secured-6. There is no evidence on the record oral or documentary to show that particular marks are awarded for each years service while giving marks in the column of seniority. So far as the case of Lal he is said to be senior by three years not declared as passed. But the fact remains that he was given 12 marks. But as stated above there is no evidence for coming to the conclusion that the marks awarded to other candidates that Naik in seniority are not justifiable. It can be seen that it is not the case of Naik himself which he admits in the cross-examination that he does not want to say that he was given less marks in the oral interviews. It can be seen that the giving of the marks for seniority is concerned it is at the time of oral interviews. On his own admission also it cannot be said that his seniority was not considered at the time of selection.

14. From the record and from the submissions on behalf of the union it cannot be ascertained that there is a system in the railways that a particular marks are to be awarded for particular year of service. As that is not so I am not inclined to accept that no in-

justice is caused to the workman at the time of selection and his seniority was not considered.

15. The Learned Advocate for the management tried to argue that the railway is not an industry. That Naik is not a workman within the meaning of Section 2(s) of the Industrial Disputes Act of 1947 because his service conditions are governed by the Indian Railway Establishment Manual and under article 309 of the constitution.

16. In fact, on facts I have come to the conclusion that Naik has no case. Under such circumstances I do not think that it is necessary for me to diallet on the arguments which was advanced on behalf of the management in respect of the jurisdiction. In the result I pass the following order :

ORDER

The action of the General Manager, Western Railway & Carriage Workshop Manager in not considering Shri S. G. Naik for selection of ELC-B is justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 3 अगस्त, 1998

का. प्रा. 1703—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया बड़ोदा, के प्रबंध तंत्र के संबद्ध नियोजकों और कमकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. II, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 31-7-98 को प्राप्त हुआ था।

[संख्या एल-12012/227/95-आई.आर. (बी. I)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 3rd August, 1998

S.O. 1703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. II, Mumbai, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India, Boroda and their workman, which was received by the Central Government on 31-7-98.

[No. L-12012/227/95-IR(B.I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.
Reference No. CGIT-2/6 of 1997

Employers in relation to the management of State Bank of India.

AND

Their Workmen

APPEARANCES:

For the Employer—Mr. M. B. Anchan Advocate.

For the workmen—Mr. M. S. Udeshi Advocate.

Mumbai, dated 10th July, 1998

AWARD—PART-I

The Government of India, Ministry of Labour by its order No. L-12012/227/95-IR(B.I), dated 7-2-97, had referred to the following Industrial Dispute for adjudication.

“Whether the action of the management of State Bank of India, Zonal Office, Baroda in dismissing the services of Shri G. L. Kalamkar vide order dtd. 20-8-81 is justified or not? What relief should be granted?”

2. G. L. Kalamkar, the workman in his statement of claim (Exhibit-6) contended that he joined the State Bank of India, Mumbai (herein after called as the bank) as a peon w.e.f. 21-11-1960. After the completion of probation he was posted at Bardoli, State of Gujarat. He was confirmed in the service.

3. At Bardoli there were twenty staff members except the workman all belong to Gujarathi community. The worker is from Maratha community. All of them treated him contemptuously. They tried to cause mental agony and torture to him. He was residing there in a rental premises on a monthly rent of Rs. 50.

4. The workman averred that on 12-12-79 he was put under suspension. While putting him under suspension it was alleged that he had committed frauds for which the inquiry would be initiated, against him. In the month of March, 1980 he was served with a chargesheet. By his reply dated 14-6-80 he denied all the charges.

5. On 7-7-80 the first date of inquiry was fixed at Bardoli. The workman is a resident of Mahed, District Raigad, Maharashtra. He had to take rail Journey eight hours and again bus journey and spends Rs. 100 to reach Bardoli. The workman attended the inquiry on 7-7-80. But he was not paid nor reimbursed these expenses. He was getting mere subsistence allowance which was difficult to maintain himself. On that date without any reason after seeing the workman present at the time of inquiry the inquiry was adjourned. He was informed that the next date of the hearing will be communicated to him at his native place.

6. The workman pleaded that he studied up to fourth standard in Marathi medium. He cannot read and write in English. He cannot understand the English language unless explained or interpreted. It is submitted that in the third week of July '90 he received a letter containing a letter purported to be dated 5th July '80 wherein it was mentioned that the inquiry is postponed to 14-7-80 instead of 7-7-80. It

is averred that it was impossible to reach the letter posted at Bardole on 5th July 1980 reach in time to the worker. The workman failed advise refer these fact which he did by a post card. Like wise further dates of the inquiry were manipulated by the inquiry officer and the management. Intimations regarding the alleged dates of further proceedings of the inquiry were deliberately caused to be despatched by them in such a way so as to reach them after the expiry of the said dates.

7. It is averred that the Memorandum dated 8-12-80 fixing the inquiry of the workmans defence on 23-12-80 was caused by the inquiry officer and management representative to reach workman not in time, thereby depriving him his legal and statutory right of effective defence. It is averred that the inquiry proceeding which was annexed to the said letter clearly speaks of improbabilities. It is pleaded that it is impossible to record the deposition of so many witnesses in two days, that is on 14-10-80 and 15-10-80. It is averred that no proper procedure was followed at the time of inquiry. It is submitted that the ex-parte inquiry conducted against the workman was camouflaged in gross violation of basic Principles of Natural Justice and fair play. He was not given a fair opportunity to participate in the inquiry for the purpose of demonstrating the falsity of the employers charges against the workman and to make proper representation and to defend himself effectively.

8. It is averred that after receiving the intimation of proposed show cause notice of dismissal he immediately replied the same. It is submitted that he also preferred an appeal against the dismissal which the bank received but he was not informed regarding its decisions eventhough his advocate wrote letters to that effect on 14-1-92 and 10-2-92. It is submitted that the inquiry which was held against the workman was against the Principles of Natural Justice. It is pleaded that even if it is said that the charges are proved the punishment awarded is shockingly disproportionate. Under such circumstances it is submitted that it may be declared that the dismissal of the workman is bad in laws and he may be reinstated in service in continuity along-with back wages and other reliefs.

9. The management resisted the claim by the written statement (Exhibit-7). It is pleaded that the claim is barred by limitation and in any case suffers from fatal delay and laches in as much as the decision of the termination of the service was communicated to the workman on 20-8-81, and his appeal was rejected by the competent authority on 30-12-81. It is averred that the workman had not approached the Tribunal with clean hands.

10. It is submitted that in view of the complaints received against the workman for his fraudulent acts he was issued with a show cause notice/chargesheet dated 1st March '80. The workman by his letter accepted the allegations by his letter dtd. 18-8-79.

11. It is submitted that thereafter a departmental inquiry was initiated against him. The inquiry officer conducted the inquiry as per the Principles of Natural Justice and had given a cogent report. It is submitted that the workman was properly informed re-

garding the dates. It is averred that he was also send the copies of the Statement of witnesses, and was asked to lend the defence evidence if he chooses. But he did not do anything. It is averred that his appeal was properly considered by the Appellate authority eventhough it was filed after the period of limitation and was properly rejected. He was informed accordingly but he has refused to accept the envelope. It is submitted that there is no merit in the case of the workman and the reference may be answered accordingly. The workman filed a rejoinder at Ex-8 and reintereated the contention taken by him and denied the contentions of the management which are contrary to his Statement of claim. It is asserted that the letter dtd. 18-8-79 eventhough was signed by him it was due to the duress and undue influence used by the bank officials.

12. The issues are framed at Exhibit-10. Issues Nos 1, 2 & 3 are treated as preliminary issues. The issues and my findings thereon are as follows :

Issues	Findings
1. Whether the domestic inquiry which was held against the workman was against the Principles of Natural Justice?	No.
2. Whether the findings of the inquiry officer are perverse?	No.
3. Whether the reference suffers from laches ?	Yes.

REASONS

13. The worker filed a purshis (Exhibit-16) informing the Tribunal that he does not want to lead any oral evidence in respect of the preliminary issue. The management also filed a purshis (Exhibit-17) that it he does not want to lead any oral evidence.

14. Admittely Kalamkar the workman was not present at the time of inquiry. In other words it was an Ex-parte inquiry. Mr. Udeshi, the Learned Advocate for the workman argued that whole approach of the management was that the workman should not attend the inquiry and it should be heard behind his back. On the other hand Mr. Anchan, the Learned Advocate for the management argued that the record itself speaks that the workman was duly served with the notice informing him the hearing date which he did not attend. That is his fault. I accept the contention of the Learned Advocate for the management, for the reasons stated below.

15. The Inquiry Officer by his notice dated 23rd January, 1980 informed the workman that the inquiry will be conducted at State Bank of India, Bardoli, Branch at 11.30 a.m Monday on 7th June, 1980. The workman accepts the position that he received the same. In the statement of claim it is averred that he attended the inquiry at Bardoli by coming from his native place which is far away. He has to spend Rs. 100/- for the same. It is pleaded that on the given date the inquiry was conducted but was adjourned and he was intimated that the

adjourned date will be communicated to him. By the application (Ex. 9) he produced a letter dated 5-7-1980 signed by the Branch Manager by which he was informed that the inquiry in question was adjourned to 14th July, 1980 at 11.30 a.m. at the branch instated of 7th July, 1980. The case which was tried to be made out was that the adjourned dates came to his knowledge at the end of July, 1980. On the said letter head (Ex.-9/2) it is written as Registered A. D. It is tried to argue on behalf of the workman that under such circumstances it would have been impossible to reach that letter to Kalamkar at Post Birwadi, Taluka. Mahad District Colaba Raigad, State of Maharashtra. I accept this position. But the record speaks something else.

16. K. B. Rajgopalan, Assistant General Manager, State Bank of Baroda (Ex.-12) by his affidavit submitted that the Bank was directed to produce acknowledgment receipt of the letter dated 5-7-1980. But it was never send by Registered post as the Original was handed over to the workman when he attended the inquiry at the branch office on that day. To support this he produced a true copy of the said letter alongwith the affidavit. It has the signature of the workman having the date 7-7-1980. There is no reason to disbelieve the bank officer on this ground. It has to be said that the workman did receive the letter dated 5-7-1980 at Bardoli by which he was informed that the proceeding is adjourned to 14-7-1980. If really that would not have been the case the workman would have entered in to the witness box to deny the same. I therefore came to the conclusion that on 5-7-1980 itself he came to know regarding the adjourned date of 14-7-1980. Further more in the appeal memo which he filed before the competent authority it is not his contention that he did not receive the intimation on the adjourned dates of the inquiry but his contention appears to be that he was not given sufficient time to consult the advocate.

17. In a reply to show cause notice of the management in paragraph-2 (Exhibit-8) to Exhibit -14 it is averred :—

"It can be observed from the dates fixed for the proposed enquiry and the adjournments, that sufficient time was never given to me and every time, I was receiving the intimation only a couple of days before the proposed date, this preventing me from making any arrangements and appointing my defence counsel. The procedure was adopted was such that the enquiry officer would first write to the Branch Manager and the Branch Manager would then send another communication to me at my native place in Mahad Taluka (Maharashtra) and by the time I would receive that communication, there would be no time for a by preparation and for my such a long and tiresome journey by bus, two different railways and there different trains, from village to Bardoli. As such, no proper opportunity was given to me."

18. It can be further seen that the workman preferred an appeal to the Appellate Authority on

5-12-1991 (Ex.-7/D). In paragraph 3(B) it is averred "what is most startling and would really vitiate the entire enquiry proceedings to the fact that the entire enquiry was conducted ex-parte. Even though it is the banks case that notice was given to me about the hearing, I have already pointed out that I was placed in such difficult circumstances that I had neither the time to attend the proceedings nor the facility to inform the Enquiry Officer, nor the finance or physical capacity to remain present at the enquiry. Consequently the entire enquiry was held behind my back as a result of which I had no occasion to deal with the evidence that has been used against me." These circumstances clearly go to show that the workman was informed regarding the hearing dates properly.

19. For the sake of argument if it is stated that there was no sufficient time for him to attend the inquiry or to contact his representative. In that case he would have send the telegram. He would have brought this fact to the notice of the concerned authorities. He had not done anything. If he would have found that the Inquiry Officer is not ready to pay attention to his grievance he would have approached the disciplinary authority in that case. But he had not done anything. That itself goes to show that he had mind not to take party in the inquiry. I therefore find that there is no substance in the contention of the workman that he was not given an opportunity to take part in the domestic inquiry.

20. If really the workman wanted to take part in the inquiry or that he felt aggrieved of not receiving the intimation in time he would have asked the inquiry officer to reopen the inquiry when he received the deposition of the witnesses and was asked to lead evidence in the matter. In normal course the inquiry officer would have called the witnesses back for cross examination by the worker. But again the workman had done nothing in the matter.

21. Mr. Udeshi, the Learned Advocate for the workman tried to argue on the basis of the proceedings on the record, which are produced alongwith Ex-7 that the whole domestic inquiry which was conducted was against the Principles of Natural Justice. The first contention which was taken by him was that in normal course when the inquiry starts in the beginning the form is mentioned then the names of the parties who are attending the inquiry is mentioned and the date is also mentioned. But in this case nothing appears to be so. He further argued that after conclusion of the days inquiry the signatures are taken of the witnesses and the inquiry officer also signed it. Here in this case the witnesses have not signed. He further submitted that one witness deposed in Gujarathi and his deposition is translated in English and then recorded and there is an endorsement that the witnesses have signed the same after verifying its correctness but signature does not appear. He further submitted that after the days inquiry it is normally written that the inquiry has concluded and then on the next day of the hearing again the forum and all those that are written. He further submitted that before completion of the examination of one witness or witnesses were examined and again the fir was called. There is a correctness in the

made by Learned Advocate Udeshi. But it is to be seen whether all these things lead to think that the inquiry which was conducted was against the Principles of Natural Justice or as argued by Mr. Archana, the Learned Advocate for the management that they are procedural defaults and such an inquiry cannot be said to be vitiated. Now it is to be seen that prejudice is caused by not following the usual procedure in this inquiry. No prejudice is caused to the workman. All the deficiencies which are narrated above are only by way of lapse of procedure. The workman should have entered into the witness box and deposed how all these things had caused prejudice to him. There is no evidence to that effect.

22. The Learned Advocate for the workman tried to argue that it was impossible to record the testimony of these witnesses in two days. I am not inclined to accept this. The whole deposition is of 32 pages which included the evidence of two witnesses which was recorded on 14-10-80. It can be further seen that even the number appears to be big. One fourth of the page is typed as E.O. to P.O. and P.O. to E.O. In fact it is very short deposition and I do not think that all this is manipulated. They can be very well typed in those two days.

23. The Learned Advocate for the workman had argued that the findings of the inquiry officer are perverse. It can be seen that the workman was issued with a chargesheet dated 1st March, 1980 (Ex-7/A). He was charged for doing an Act prejudicial to the interest of the bank involving or likely to involve the bank in serious losses; wilful damage or attempt to cause damage to the banks records. In the chargesheet there is a mention on which accounts the workman committed the frauds and on which date and of what amount. Thereafter there is a mention that in the inquiry the workman confessed the guilt committed by him by his letter dtd. 18-8-79. The inquiry officer by his report dtd. 27-3-81 (Exhibit-7/C) had given details of the proceedings. He had observed that the presenting officer produced ten witnesses as mentioned in the annexure-II in the report. He summarised how the witnesses have corroborated each others on the points mentioned there in. He had also mentioned that the documentary evidence on the record regarding the fraud is sufficient to prove the charges and he concluded that both the charges are proved. It can be seen that as there is no cross-examination of the witnesses the inquiry officer had relied upon the testimony of the witnesses and the documents in the record. I find the report given by the inquiry officer is well reasoned and his findings are based on the evidence before him.

24. On 5th December '81 Kalamkar preferred an appeal against order of dismissal dated 20th August, 1981. In the appeal memo itself he had mentioned that he is filing the appeal after the limitation and it may be condoned. The bank did receive the appeal. The Appellate authority by his order dated 30th December, 1981 (Ex-7/E) rejected the appeal. He was informed regarding the dismissal of the said appeal. Alongwith the written statement the management had produced at Exhibit-'F' an envelope bearing an endorsement 'refused' return to the sender.

It is contended in the written statement that the intimation of rejection to appeal was sent to the worker in an envelope which was refused by him. It is contended in the Statement of Claim that the advocate for the workman by his letter dated 14-1-92 and by a reminder dated 10-2-92 asked the management in respect of what had happened in respect of the appeal. By no stretch of imagination it can be said that after filing of the appeal the witnesses who claims to be facing difficulties in view of the dismissal will keep idle for a period of 12 years without getting any intimation. The case which is tried to be made out appears to be for showing that as his appeal was pending, no steps were taken by him. I do not find any merit in it. It is common knowledge that when such an appeal is filed the concerned persons always after the decision of the same. After reasonable time he approaches the authorities personally or in writing and requests for the disposal of the appeal. But here in this case nothing had taken place. I therefore find that after keeping silent for such period the attempt of the workman to move the Assistant Labour Commissioner and the Government referring the matter to this Tribunal for adjudication suffers from laches. It can be further seen that the explanation which is tried to be given by the workman is unsatisfactory.

25. The Learned Advocate for the management while arguing the matter submitted that the workman has raised the dispute after 12 years which is bad in law and he placed reliance on *State Bank of Indore V/s. Govind Rao* 1997 I CLR 418. That was the case where the Supreme Court observes that there was no reason for the High Court after a long lapse of nearly ten years from the date of the order of dismissal to entertain the writ petition and quash the order of dismissal.

26. The Learned Advocate for the workman argued that that was the case where the Supreme Court observed that Extra Ordinary Writ jurisdiction to the High Court under Article 226 of the constitution should not have been invoked in such a case.

27. The Learned Advocate for the workman argued that the ratio down in the *Inder Singh and Sons Ltd. and their Workmen* 1961 II LLJ 89 is very significant. In his written argument he mentioned that the Apex Court in the above case has held 'the words 'at no time' used in Section 10(1) do not admit of any limitation in making the order of reference.' The law of limitation which might bar in Civil Court for giving a remedy in respect of lawful rights cannot be applied by the Industrial Tribunal. He also placed reliance on 1997 Labour IC(NOCF) pg. 13 and Chief General Manager, State Bank of India Lucknow Vs. B. C. Varma 1994 I CLR 1019 wherein it is observed that the word at anytime appearing in Section 10(1) of the Industrial Disputes Act clearly show that then a reference is made the court should not strike down the same on the point of laches.

28. In *G. Ganeshan Vs. Union of India and Ors.* 1993 LAB IC 802, His Lordships observed that inordinate delay was the just and proper ground for refusing to make the reference. In that case the Government refused to make a reference in view of

inordinate delay. The workman had not given any satisfactory explanation for the inordinate delay. I find that the reference suffers from laches. Its effects are to be seen while considering the remaining issues in the reference. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

1. The domestic inquiry which was held against the workman was as per the Principles of Natural Justice.
2. The findings of the inquiry officer are not perverse.

S. B. PANSE, Presiding Officer

नई दिल्ली, 3 अगस्त, 1998

कां.प्र. 1704 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे, मुम्बई के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, न II, मुम्बई को पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-7-98 को प्राप्त हुआ था।

[सं. एल- 41011/67/95-आई. आर. (बी. I)]

पी. जे. माईकल डेस्क अधिकारी

New Delhi, the 3rd August, 1998

S.O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway, Mumbai and their workman, which was received by the Central Government on 31-7-98.

[No. I-41011/67/95-IR(B.I)]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/15 of 1997

Employers in relation to the management of Western Railway, Mumbai.

AND

Their workmen.

APPEARANCES :

For the Employer: Mr. Suresh Kumar, Advocate
For the Workmen: Mr. M. R. Anchan, Advocate.
Mumbai, dated 15th July, 1998

AWARD

The Government of India, Ministry of Labour by its Order No. I-41011/67/95-IR(B.I.), dated 10-3-97 had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of Western Railway Sr. DEE(S), Bombay Central not granting promotion to Shri N. K. Tipnis is justified or legal. If not, to what relief should be granted?"

2. The Paschim Railway Karamchhari Parishad, Mumbai (hereinafter called the union) filed its statement of claim at Exhibit-4. It is pleaded that Tipnis the workman was promoted as TFO on ad-hoc basis after considering his seniority on the scale of Rs. 2000—3200. The Railway Board by its letter dated 27-1-93 issued orders restructuring certain posts in the electrical department. The General Manager by his letter dated : 8-2-93 upgraded five posts of TFO/CTA and filled up these posts w.e.f. 1-3-93. It is averred that even-though the worker was working on that post and in the scale of Rs. 2000—3200 since 1992 and even though he was senior most he was not considered for regularisation in that post as juniors were regularised/promoted.

3. The Union averred that the Divisional Railway Manager in his order dated 19-11-93 in foot note stated that the workman is not considered for regularisation by Competent Authority. Infact before the said order the workman was not communicated the adverse remarks in his C.R. It is pleaded that he was not served with a letter dated 16-11-92 conveying him his C.R. for the period ending 31st March, 1992 which reads ability to conduct inquiries, give evidence and prepare reports—No, needs more experience. It is averred that when such adverse remark is there it is necessary for the authorities to call for explanation. If such explanation is not called for it is presumed that there is no adverse remark. It is submitted that the workman was not given an opportunity to give his explanation. Therefore it has to be treated that there is no adverse remark. It is further averred that while communicating the adverse remark it was not mentioned that it effect the promotional avenues of the workman. It is therefore submitted that the workman is entitled to regularisation and promotion in the scale of Rs. 2000—3200. It is prayed that under such circumstances the reference may be answered in favour of the workman.

4. The management resisted the claim by the written statement (Exhibit-7). It is pleaded that the Court has no jurisdiction to entertain and decide the reference as railway is not an industry. It is pleaded that the applicant is not a workman as defined in Section 2(S) of the Industrial Disputes Act of 1947 and which is governed by the rules formed under Article 309 of the Constitution of India. It is pleaded that the reference suffers from laches. It is submitted that the reference is about promotion, seniority and fixation of payment. If the relief is granted to the applicant other persons will be effected who are not parties to the reference. It is therefore, the reference is not tenable for want of necessary parties.

5. The management pleaded that the service record of the employee was not good. It is therefore he is not entitled to the promotion as asked for. It is averred that the employee failed to include to make the representation to the higher authorities in respect of the adverse remarks. As such it has to be accepted that he accepted the remarks and he is not entitled to any promotion. It is prayed that under such circumstances the reference may be answered accordingly.

6. The issues that fall for my consideration and my findings there on are as follows :

Issues	Findings
1. Whether the action of the management of Western Railway, Mumbai Central not granting promotion to Shri Tipnis is justified or legal ?	Yes.
2. If not, what relief should be granted to him ?	Does not survive.
3. Whether the Tribunal had jurisdiction to decide the reference ?	In view of finding of issue No. 1, not answered.

REASONS

7. To bolster up the case Narendra Tipnis (Ex-9) the workman examined himself and relied upon the documents which were filed by him at Exhibit-8. As against that the management chose not to lead any oral evidence in the matter (Ex-13). But they relied upon the documents which they produced alongwith Exhibit-12.

8. Tipnis the workman admittedly was working as Assistant Traffic Foreman Scale Rs. 1600—2660 in the Electrical Traction (sub-station) department, Western Railways at Elphinstone Road, sub-station. Thereafter he was promoted on ad-hoc basis as a Traction Foreman Scale of Rs. 2000—3200 on 13-5-92. Thereafter the post of Assistant Traction Foreman have restructured and up-graded.

9. Tipnis affirmed that when the post was up-graded he was not considered for the post of promotion and confirmation but his juniors were considered. He was not regularised. The promotion which Tipnis wants is within the Group 'C' only. He claims that promotion from 1-1-93 that is when the post was upgraded. He affirms that four persons superceded him and if he is promoted those persons will be affected. They are not parties to this present reference.

10. It is argued on behalf of the management that the workman was considered for the post. The extract of the DPC, the proceedings in which the name of the applicant was considered is at Ex-12/2. But it can be seen that he could not be taken on in view of the adverse remark against him for the year 1992. The adverse remark was communicated to the workman by a letter dated 21-11-92 (Ex-12/3). He admits to have received the communication. It can be seen that the adverse remark was "applied to conduct inquiries site evidence and prepare report—No. he needs more experience". He affirmed that he was not allotted any inquiry to be conducted nor he was not asked to record the evidence. So there was no question of preparing any report. According to him the remark was made to deprive him for the promotion by virtue of upgradation. It is not in dispute that when any adverse remark is communicated to railway employees he has to make representation to the authorities regarding the same. If he does not do so it has to be presumed that the adverse entry is on the record. He admits that he did not make any representation against the said adverse remark. He affirmed that if an adverse remarks which is communicated is affecting the promotion then the representation is to be made. Otherwise it is to be treated as for improvement. According to him as it is not mentioned in the foot note that it will affect the promotion he did not make any representation. But, he could not site out any rule to show that there is such requirement for making the entry on the report that it will affect the promotion. Further more admittedly he was informed to make a representation against it. That itself speaks that it was bound to affect his promotion. Otherwise it has to be treated for improvement.

11. It is not in dispute that for non-selection posts the persons who are having two C.R.'s good out of the three including the last one may be considered fit for promotion. So far as the workman is concerned while considering his case the confidential report year ending 1990, 1991 and 1992 were considered and the last one ending March, 1992 being adverse. He cannot be considered for the post. This was so informed to the Assistant Labour Commissioner by the management by its letter dated 27-4-96 (Ex-12/1).

12. It is tried to argue on behalf of the management that supposing that the adverse remark is incorrect in that case it was the duty of the worker to make a representation and get the remark expounded. He did not do so. Under such circumstance the management cannot be found fault with. The fault lies with the worker. It is not the case that the management did not consider the case of the workman for promotion. The committee found him not fit for the promotion. I do not find any reason to hold it otherwise.

13. The Learned Advocate for the management tried to argue that railway is not an Industry. That Tipnis is not the workman within the meaning of Section 2(S) of the Industrial Disputes Act of 1947 because his service conditions are governed by the Indian Railway Establishment

Manual and under article 309 of the Constitution. In fact as facts I have come to the conclusion that Tipnis had no case. I do not think it necessary to dialect on the other argument which was adduced on behalf of the management for coming to the conclusion whether the Tribunal had jurisdiction to decide this reference or not. In the result I make the following order:

ORDER

The action of the management of Western Railway Sr. DEE(S). Bombay Central not granting promotion to Shri N. R. Tipnis is justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.प्रा. 1705--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ए.एन. जेड ग्रिंडलेस बैंक, कलकत्ता-1 के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता-1 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-8-98 को प्राप्त हुआ था।

[सं० एल-12011/37/96-आई आर (बी-1)]
पी. ज. माईकल, डेस्क अधिकारी

New Delhi, the 7th August, 1998

S.O. 1705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of ANZ Grindlays Bank, Calcutta-1 and their workman, which was received by the Central Government on the 6-8-1998.

[No. L-12011/37/96-IR(B.I.)]

P. J. MICHAEL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

Reference No. 45 of 1997

PARTIES :

Employers in relation to the management of
ANZ Grindlays Bank, Calcutta-1

And

Their workmen.

PRESENT :

Mr. Justice A. K. Chakravarty—Presiding
Officer,

APPEARANCE :

On behalf of Management—M/s. R. Mukherjee, Advocate.

On behalf of Workmen—None.

STATE : West Bengal. INDUSTRY : Banking.

AWARD

By Order No. L-12011/37/96-IR(B-I) dated 26-11-1997 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Grindlays Bank not giving promotion to Shri D. K. Roy, B. B. Banerjee, A. K. Mullick (A. K. Banerjee as Special Assts. and superseeding them by Shri A. B. Bhattacharjee was justified? If not, to what relief the workmen are entitled to?”

2. When the case is called out today, learned Advocate for the management is present. None appears on behalf of the union, nor any step is taken on its behalf in the matter inspite of service of notice and inspite of information to the General Secretary of the union by registered post as well as by personal service by the management. It is therefore, clear that the union is no longer interested in the matter.

3. In the aforesaid circumstances in the absence of any material what-so-ever for any decision in respect of the schedule under reference, this Tribunal has no other alternative but to pass a “No Dispute” Award.

4. A “No Dispute” Award is accordingly passed and the reference is disposed of.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer

Dated, Calcutta,

The 23rd July, 1998.

नई दिल्ली, 18 अगस्त, 1998

का.आ. 1706.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा 01 सितम्बर, 98 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा -76 की उपधारा (1) तथा धारा 77, 78, 79 और 81 के सिवाय जो पहले ही 2208 GI/98—7.

प्रवृत्त की जा चुकी है] के उपबंध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्, :-

“जिला भडक के तूप्रान मंडल में राजस्व ग्राम कलाकल के अन्तर्गत आने वाले क्षेत्र ।

[सं. एम.-38013/22/98-एम.एस.-I]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 18th August, 1998

SO 1706.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 1998 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas of the State of Andhra Pradesh namely :

“The areas within the revenue village of Kallakal in Tcopran Mandal in Medak District.”

[No. S-38013/22/98-SS-II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 7 अगस्त, 1998

का.आ. 1707.—कर्मचारी राज्य बीमा निगम अधिनियम, 1948 (1948 का 34) की धारा 4 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा भारत के राजपत्र, भाग II, खंड 3 (ii) दिनांक 8 जून 1995 में प्रकाशित श्रम मंत्रालय, भारत सरकार की अधिसूचना सं. का.आ. 509 (ई) दिनांक 8 जून, 1995 में निम्नलिखित संशोधन करती है :-

उक्त अधिसूचना में, “इस प्रयोजनार्थ केन्द्रीय सरकार द्वारा मान्यता प्राप्त नियोक्ता संगठनों के परामर्श पर धारा 4 के खंड (च) के अधीन केन्द्रीय सरकार द्वारा नियुक्त” शीर्षक के नीचे, क्रमांक 32 के सामने दी गई प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियों प्रतिस्थापित की जाएंगी, अर्थात् :-

श्री पी. के. ए. नारायणन,

मुख्य महाप्रबंधक (कार्मिक)

राष्ट्रीय कपड़ा निगम लिमिटेड

स्कोप कॉम्प्लेक्स कोर-1-[IV

7, लोधी रोड,

नई दिल्ली-110003

[सं. यू-16012/2/95-एस एस-1]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 7th August, 1998

S.O. 1707.--In exercise of the powers conferred by Section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby

makes the following amendments in the Notification of the Government of India in the Ministry of Labour No. S. O. 509(E), dated the 8th June, 1995 published in the Gazette of India, Extraordinary, Part II, Section-3 (ii) dated the 8th June, 1995 ;

In the said Notification under the heading "Appointed by the Central Government under clause (f) of Section 4 in consultation with organisations of employers Recognised by the Central Government for the purpose" for the entries against Serial No. 32, the following entries shall be substituted namely :—

Shri P. K. A. Narayanan,
Chief General Manager (Personnel),
National Textile Corporation Limited,
SCOPE Complex, Core-IV,
7-Lodhi Road,
New Delhi-110003.

[No. U-16012/2/95-SS- 11

J. P. SHUKLA, Under Secy.

नई दिल्ली, 6 अगस्त, 1998

का.आ. 1708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ओ.एन.जी.सी. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-98 को प्राप्त हुआ था।

[सं. एल.-20040/75/95-आई आर(सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 6th August, 1998

S.O. 1708.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd. and their workman, which was received by the Central Government on 3-8-1998.

[No. L-20040/75/95-IR (C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT : VISAKHAPATNAM

Present :

Sri K. Satyanand, B.Sc., LL.M., Chairman, Industrial Tribunal and Presiding Officer, Labour Court, Visakhapatnam.

I.T.I.D. (C) 15/98

Dated : 16th day of May, 98

BETWEEN

K. Yesu and 170 others
The General Secretary,
ONGC Limited Contingent,
and contract workers union.
Door No. 52-12-7

Rajendranagar,
Rajahmundry-3.

.. Workmen.

AND

The Group General Manager,
ONGC Limited,
Danavaipeta,
Rajahmundry-533 103.

.. Management

This dispute coming on for hearing before me in the presence of Workmen and Management. Workmen filed memo and upon perusing the material papers on record the court passed the following :

AWARD

Memo on behalf of workmen filed not pressing the I.D. closed passing nil award in terms of the memo.

Given under my hand and seal of the court this the 16th day of May, 98.

SRI K. SATYANAND, Chairman
and Presiding Officer

नई दिल्ली, 6 अगस्त, 1998

का.आ. 1709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. ओ. एन. जी. सी. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापत्तनम के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 3-8-98 को प्राप्त हुआ था।

[सं. एल-30012/6/97-आई आर (सी-I)]

अजय कुमार अनुभाग अधिकारी

New Delhi, the 6th August, 1998

S.O 1709.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. O. N.G.C. Ltd., and their workman, which was received by the Central Government on 3-8-1998.

[No. L-30012/6/97-IR (C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT :

Shri K. Satyanand, B. Sc., LL. M.,
Chairman, Industrial Tribunal and
Presiding Officer, Labour Court,
Visakhapatnam.

I.T.D. (C) 16/98.

Dated : 16th day of May, 1998.

BETWEEN :

S. Krishna Rao and 155 others
The Secretary,
Petroleum Employees Union,
Door No. 52/1-7
Rajendra Nagar,
Rajahmundry-3.

.. Workman.

AND

The Group General Manager
O.N.G.C. Limited,
K. G. Project,
Danavaipeta
Rajahmundry-533 103.

.. Management.

This dispute coming on for hearing before me in the presence of Workman and the management, Workman filed memo and upon perusing the material papers on record the court passed the following :—

AWARD

Memo on behalf of workman filed not pressing the I. D. closed passing nil Award in terms of the memo.

Given under my hand and seal of the Court this the 16th day of May, 1998.

SHRI K. SATYANAND, Chairman
and Presiding Officer.

नई दिल्ली, 6 अगस्त, 1998

का.आ. 1710.—औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. श्री. एन. जी. सी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापटनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-98 को प्राप्त हुआ था।

[सं. एल-30012/4/97-आई आर (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 6th August, 1998

S.O. 1710—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. O.N.G.C. Ltd., and their workman, which was received by the Central Government on 3-8-1998.

[No. L-30012/4/97-IR (C-I)]
AJAY KUMAR, Section Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, VISAKHAPATNAM.

PRESENT :

Sri K. Satyanand, B.Sc., I.L.M.,
Chairman, Industrial Tribunal and
Presiding Officer, Labour Court,
Visakhapatnam.

I. T. I. D. 2/97.

Dated : 16th day of May, 1998.

BETWEEN :

The Secretary,
Visakhapatnam Port Employees Union,
D. No. 26-15-/204, Dharmashakti Bhavan,
Visakhapatnam-530 002.

.. Petitioner.

AND

1. Senior Security Officer,
Oil and Natural Gas Commission,
K. G. Project, Rajahmundry.
2. Presiding, Godavari Control Industrial
Workers Maintenance Service Co-op.
Society Ltd., D No. 18/289,
Syamolonagar, Rajahmundry.

.. Respondents.

This dispute coming on for hearing before me in the presence of Shri B. Cokulo Krishna, Advocate for R-1, R-2 set exparte. No representation for workman. On perusing the material papers on record the court passed the following :—

AWARD

- I. D. closed passing Nil Award as there is absolutely no representation for the workman either from the Employees Union or the Dock Officer who addressed, in vain, to furnish the details of the workmen concerned in this I. D.

Given under my hand and seal of the court this the 16th day of May, 1998.

SHRI K. SATYANAND, Chairman
and Presiding Officer.

नई दिल्ली, 6 अगस्त, 1998

का.आ. 1711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. एयर इंडिया लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण (सं. -2) मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-98 को प्राप्त हुआ था।

[सं. एल-11012/33/96-आई आर (सी-I)]

अजय कुमार अनुभाग अधिकारी

New Delhi, the 6th August, 1998

S.O. 1711.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. AIR India Ltd. and their workman, which was received by the Central Government on 3-8-98.

[No. L-11012/33/96-IR (C-I)]
AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.
Reference No. CGIT-2/76 of 1997
Employers in relation to the management of
AIR INDIA Limited.

AND

Their Workmen

APPEARANCES:

For the employer—Mr. N. S. Lal Advocate.
For the workmen—Ms. Kunda Samant Advocate.

Mumbai, dated 17th July, 1998

AWARD—PART-I

The Government of India, Ministry of Labour by its Order No. L-11012(33)/96-IR(C.I), dated 14-10-97 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the management of Air India Ltd., in terminating the services of Mr. P. D. Kale staff No. 24988, Ex-cleaner w.e.f. 3-7-1992 is justified? If not, to what relief is the said workman entitled?"

2. The workman in his statement of Claim (Ex-7) contended that he joined the Air India Ltd. as a cleaner in 1977. In or about February '1988 it was found that his wife Jayshree then aged 26 was suffering from Brain Tumour His wife serious illness and huge medical expenses affected the workman physically and mentally. He began to get service head aches and pains in his chest and stomach. The workman pleaded that on some occasions he could not attend duties due to the sickness of his wife and own sickness. At the relevant time he used to phone up the management and used to inform the management regarding his absentism. He used to obtain a medical certificate from the doctor who treated him at Bombay or at his native place and submit the same. Under such circumstances it cannot be said that he remained absent without any proper cause.

3. The workman pleaded that he was served with a chargesheet on 11-8-89 for remaining absent for 159 days between March '88 to June '89. The inquiry was conducted against him. He alleged that in the inquiry it was revealed that out of those 159 days his 156 days leave was regularised. Under such circumstance the inquiry officer should not have given report against him. It is pleaded that the inquiry was conducted in English which he could not follow and could not defend himself properly. It is asserted that he requested the committee to conduct the inquiry in Marathi but no attention was given to it. He denied that he accepted the guilt before the committee. According to him the inquiry which was held against him was against the Principles of Natural Justice and the findings of the inquiry officer are perverse.

4. The workman pleaded that he was issued with a second chargesheet dtd. 8-5-90. It was alleged that he remained absent for 136 days unauthorisedly between July 88 to March '90. He contended that that inquiry was also conducted in English which he did not follow. He requested the committee to hold an inquiry in Marathi but it was not accepted. He asserted that the inquiry was against the Principles of Natural Justice and the findings of the inquiry officer are perverse. It is averred that after getting the reports in the inquiries dtd. 16-10-90 and 28-8-91 the management passed an order of dismissal dt. 26-8-91. It confirmed the findings of the inquiry officer which is unjust and illegal. It is pleaded that as the inquiry was conducted under the Model Standing orders which prohibits conducting the inquiry in a language which is not understood by the delinquent. He averred that his defence was jeopardised because it was conducted in English language. He would not cross examine the witnesses properly. For all these reasons it is submitted that the order of dismissal may be set aside. He may be reinstated in service with full back wages including other reliefs.

5. The management resisted the claim by the Written Statement (Exhibit-8). It is averred that the workman fully participated in the inquiry. He was given copies of the documents which the management relied. The committee asked him whether he wanted to be defended by any defence representative for which he replied in the negative and submitted that he wants to represent himself personally. It is averred that the workman admitted the guilt in respect of the chargesheet dtd. 11-8-89. It is denied that he requested to conduct the inquiry in Marathi which the committee declined. It is submitted that the defence which is taken now is an afterthought. According to management when the delinquent accepts the guilt it is not necessary to hold the inquiry at all nor the workman could challenge the fairness of the inquiry.

6. The management averred that in both the inquiries the Principles of Natural Justice was followed and findings of the inquiry committee are based on the evidence before it and they cannot be said to be perverse. It is averred that the punishment which is awarded to the workman is just and proper, he is not entitled to any reliefs as claimed. It is further pleaded that if the Tribunal comes to the conclusion

that the inquiry which was held against him was not as per the Principles of Natural Justice then in that case the management may be given an opportunity to justify its action by leading evidence. For all these reasons it is averred that the reference may be answered in favour of the management.

7. The workman reiterated his claim by rejoinder Exhibit-11. It is pleaded that he was not given an opportunity to show cause against the findings of the inquiry committee before proposing the punishment it is averred that the medical certificates which were produced by the workman were not accepted by Air India Doctors but the fact still remains that his absence was due to sickness.

8. Issue Nos. 1 & 2 are to be treated as preliminary issues. The issues and my findings there on are as follows:

Issues	Findings
1. Whether the domestic inquiry which was held against the workman was against the Principles of Natural Justice?	Yes.
2. Whether the findings of the inquiry officer are perverse?	Yes.

REASONS

9. P. D. Kale the workman was admittedly given a charge-sheet dated 11-8-89 for remaining absent for 159 days and a chargesheet dated 8-5-90 for remaining absent for 136 days. The committee conducted an inquiry in English. It is not the case of the workman that he was not given the copies of the documents. Kale (Exhibit-15) affirmed that the inquiry was conducted in English, the language which he did not understand. He affirmed that he informed the inquiry committee to conduct the inquiry in Marathi language. But the committee did not pay any attention to it. It can be further seen that one of the member of the committee was knowing Marathi. He affirmed that eventhough there is an endorsement that the proceedings were explained to him in Marathi it was never. He also denied that he accepted the guilt.

10. The inquiry was under the Model Standing Orders. The Model Standing Orders clearly states that all proceedings of the inquiry shall be conducted in English, Hindi or Marathi according to the choice of the employee concerned defending him. Here in this particular case it can be seen that it is unlikely that the workman who was defending his case personally will ask the committee to conduct the inquiry in English. He affirms that he does not know English. There is no record to show that he know English. Under such circumstances as affirmed by him it has to be accepted that he requested the committee to conduct the inquiry in Marathi. But the committee did not accept it. That is gross violation of the rules. It is rightly argued on behalf of the workman that because of that he could not defend his case properly, nor he could cross-examine the witnesses in proper spirits. Under such circumstances it has to be said that the inquiry which was conducted against the workman was against the Principles of Natural Justice.

11. As I have come to the conclusion that the inquiry was against the Principles of Natural Justice the management had to be given an opportunity to lead evidence. From the inquiry proceedings it can be seen that the time keeper admits the position that 156 days out of 159 days absentism between March '88 to June '89 of worker was regularised. Under such circumstances the findings of the inquiry officer appears to be perverse. In any case now the evidence has to be recorded before the Tribunal to justify the action by the management. For all these reasons I record my findings on the issues accordingly and pass the following order:

ORDER

The inquiry which was conducted against the workman was against the Principles of Natural Justice.

The findings of the inquiry officer are perverse.

S. B. PANSE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.आ. 1712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबंध और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, (सं.-2) धनबाद के पंचात को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20012/83/90-आई आर (सी-1)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

S.O. 1712.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-20012/93/90-IR(C-D)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 26 of 1990

PARTIES:

Employers in relation to the management of Moonidih Project of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT:

Shri B. B. Chatterjee, Presiding Officer.

APPEARANCES:

For the Employers: Shri B. Joshi, Advocate.

For the Workmen: Shri D. K. Dey, Secretary, Dhanbad Colliery Karmachari Sangh.

STATE: Bihar.

INDUSTRY: Coal.

Dated, the 21st July, 1998

AWARD

By Order No. L-20012/83/90-IR. (Coal-I) dated 19-10-90 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the demand of the Union that Shri Sanat Kumar Upadhyay, Piece-rated Mazdoor, T. No. 6763 of Moomidih Project M/s. BCCL, be regularised as a clerk in Grade-III w.e.f. 1983 is justified? If so, to what relief the workman is entitled and from what date?"

2. In this case both parties filed their respective written statements. But no documents were filed despite giving several adjournments. Thereafter the case was fixed for adducing evidence on behalf of the workmen.

4. Under the above circumstances, I render a 'no dispute' award, submitted that he is not interested to contest the case further. It, therefore, appears that neither the workman nor his representative is interested in prosecuting the reference case.

4. Under the above circumstances, I render a 'no dispute' award in the reference case.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.आ.1713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में, निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण (सं -2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20012/219/89-आई आर (सी-1)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

S.O. 1713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-20012/219/89-IR(C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Section 10(1)(d) (2A) of the Industrial Disputes Act, 1947

Reference No. 43 of 1990

PARTIES:

Employers in relation to the management of Kathara Coal Washery of C.C.L.

AND

Their Workmen.

PRESENT:

Shri B. B. Chatterjee, Presiding Officer.

APPEARANCES:

For the Employers: Shri B. Joshi, Advocate.
For the Workmen: None.

STATE: Bihar.

INDUSTRY: Coal.

Dated, the 20th July, 1998

AWARD

By Order No. L-20012(219)/89-IR.(Coal-I) dated 25-10-90 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the demand of the Bihar Colliery Kamgar Union that the 171 workmen engaged in slurry transporting and other jobs at Kathara Coal Washery be paid arrears of wages as per the agreement dated 18-2-88 is justified? If so, to what relief the concerned workmen are entitled to?"

"Whether the demands of the Bihar Colliery Kamgar Union that arrears of difference of wages arising out of conversion from monthly rated to daily-rated in respect of S/Shri Nanku Nayak, Tribhuwan Singh, Mahabir Singh, Jagdish Turi, Sahdeo Manjhi, Dukhan Manjhi, Ram Kistul Manjhi and Ram Kumar Manjhi is justified? If so, to what relief the workmen are entitled to?"

"Whether the action of the management of Kathara Coal Washery of Central Coal Fields Ltd. in denying promotion to workers in categories 'C' I—VI against vacancies arising out of the promotion of Categories VI employees to the post of Chargemen is justified?

If not, to what relief the workmen are entitled to?"

2. The order of reference was received in this Tribunal on 31-12-1990. Despite registered notices issued to the parties and giving several adjournments neither the concerned workmen nor the sponsoring union appeared to take any step in this case. It, therefore, appears that neither the concerned workmen nor the sponsoring union appeared to take any step the present reference case.

3. In such circumstances I render a 'no dispute' award in the present reference case.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.आ.1714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, बी. सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण (सं -2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20012/276/92-आई आर (सी-1)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

S.O. 1714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-20012/276/92-IR(C-I)]
AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 207 of 1993

PARTIES:

Employers in relation to the management of Kustore Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT:

Shri B. B. CHATTERJEE, Presiding Officer.

For the Employers : None.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 21st July, 1998

AWARD

By Order No. L-20012(276)/92-I.R. (Coal-I) dated 30-9-98 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Kustore Colliery of M/s. B.C.C. Ltd., in denying categorisation of the workman in Excavation Grade 'C' w.e.f. March, 1986 and Excavation Grade 'B' from March, 1989 is justified? If not, to what relief the workman is entitled?"

2. The order of reference was received in this Tribunal on 30-11-1993. Despite registered notice issued to the sponsoring union neither the concerned workman nor the sponsoring union appeared to take any step in this case. It, therefore, appears that neither the concerned workman nor the sponsoring union is interested to prosecute the present reference case.

3. In such circumstances I render a 'no dispute' award in the present reference case.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.प्रा. 1715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20012/302/86-डी.-III ए/आई प्रार (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

S.O. 1715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Govt. Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-20012/302/86-D.IIIA/IR(C-I)]
AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 195 of 1987

PARTIES:

Employers in relation to the management of Industry Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT:

Shri B. B. Chatterjee, Presiding Officer.

APPEARANCES:

For the Employers : None.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 23rd July, 1998

AWARD

By Order No. L-20012(302)/86-D.III(A) dated 12-5-1987 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of Sub-Sec. (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the demand of Janta Mazdoor Sangh for redesignation of Shri Dwarika Mondal, a workman of Industry Colliery of M/s. Bharat Coking Coal Limited, as Prop Mistry in Category-IV is justified? If yes, to what relief the workman is entitled?"

2. The order of reference was received in this Tribunal on 40-5-1987. Despite registered notices issued to the parties neither the concerned workman nor the sponsoring union appeared to take any step in this case. It, therefore, appears that neither the concerned workman nor the sponsoring union is interested to prosecute the present reference case.

3. In such circumstances I render a 'no dispute' award in the present reference case.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.प्रा. 1716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20012/325/86-डी.-III ए/आई प्रार (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

New Delhi, the 7th August, 1998

S.O. 1716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-20012/325/86-D.IIIA/IR(C-I)]
AJAY KMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 132 of 1947

PARTIES :

Employers in relation to the management of Govindpur Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

PRESENT :

Shri B. B. Chatterjee, Presiding Officer

APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 27th July, 1998

AWARD

By Order No. L-20012(325)/86/D.III(A) dated the 28th April, 1987, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Govindpur Colliery of M/s. Bharat Coking Coal Limited in transferring S/Shri Kaleshwar Das, Lalchand Das and Blu Mahata from Govindpur Colliery to Kustore Area is justified ? If not, to what relief are these workmen entitled ?"

2. The Order of reference was received in this Tribunal on 26-5-1987. Thereafter registered notices were issued to the parties. But neither the concerned workmen nor the sponsoring union appeared to take any step in this case. It, therefore, appears that neither the concerned workmen nor the sponsoring union is interested to prosecute the present reference.

3. In such circumstances I render a 'no dispute' award in the present reference.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.सं. 1717-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सै. बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-1) धनबाद के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20012/376/93-आई आर (सी-1)]

अजय कुमार, अनुभाग अधिकारी

S.O. 1717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 1), Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-20012/376/93-IR(C-I)]
AJAY KMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an industrial Dispute under Section 10(1) (d) and sub-section 2(k) of the I.D. Act, 1947
REFERENCE NO. 58 OF 1995

PARTIES :

Employers in relation to the management of Katras Area of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Secretary, B.C.K.U.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 27th July, 1998

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) and sub-section 2(k) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(376)/93-I.R. (Coal-I), dated, the 3rd April, 1995.

THE SCHEDULE

"Whether the action of the management of Katras Area of BCCL in dismissing Sri A. K. Dutta, Ex-Clerk at Dhansar Sales Centre, from service w.e.f. 25-11-83 is justified ? If not, to what relief the workman concerned is entitled ?"

2. The concerned workman Shri A. K. Dutta through the union has put forward his claim in the W.S. for his reinstatement in the service with full back wages and all other consequential benefits by making out a case therein which may be stated as follows :—

The concerned workman Shri A. K. Dutta had been working as permanent clerk at Dhansar Sales Centre since long satisfactorily but the management with a view to cover up its own fault issued a frivolous chargesheet against the concerned workman which was published in the local newspaper Awaz on 29-1-1983 informing as noted below :—

"It has been reported that you have been on duty on 25th January, 1983 in the second shift commencing from 2 P.M. to 10 P.M. at Dhansar Sales Centre. During duty hours you were supposed to receive applications from the customers, checking the same issue of money receipts, D.O. preparing, Draft statement and to send the same draft as well as cash to Area Cash Office on the next day along with a statement of cash received from the customers against the respective sales order. The cash amounting to Rs. 10,915.52 raise along with a statement realised from the customers was supposed to be deposited on the next working day. But the same has not been deposited by you and reported that the above amount has been stolen from the drawer of the table on 27-1-83.

You were supposed to keep the cash realised from the customers in the iron safe but the same was not kept in the iron safe in Area Office sometime in October, 1983 which you took back from the Area on 25-1-83.

You with connivance with Shri N. K. Chouhan and Lalan Nonia, Peon misappropriated the money amounting to Rs. 41,245.14 paise being the cash realised from the customers on 24th and 25th January, 1983 at Dhansar Sales Centre and falsely reported about the theft of the money".

Similar chargesheet was also issued against another sales Assistant N. K. Chouhan and like that of the concerned workman he was also dismissed. A criminal case was also started against the concerned workman for identical charges which was registered as GR Case No. 231/83. The concerned workman, however submitted satisfactory reply to the chargesheet so published in the local newspaper but the management for the reasons best known to them constituted an invalid and irregular enquiry committee for the purpose of domestic enquiry against the concerned workman and other headed by a biased Enquiry Officer. The concerned workman approached the management to postpone further proceeding of the domestic enquiry in view of the fact of pendency of the criminal trial for similar charge but no bid was paid to the same. The Enquiry Officer conducted the enquiry in utter violation of the principles of natural justice in most invalid and an irregular way without affording full opportunity to the concerned workman for cross-examining the management's witness and to adduce evidence on his defence. In addition the concerned workman was also deprived of opportunity to place all the materials facts before the Enquiry Officer in course of the domestic enquiry and although the concerned workman categorically submitted during the enquiry proceeding that he was not assigned to the duty of keeping any amount received from the customer and no amount was in his custody as it was not his duty to receive cash from the customers at Sales Centre and thereby to deposit the same with the cashier in the Area Office. The concerned workman also submitted that the Sales Centre used to be controlled by Shri R. N. Sahay, Sr. Sales Officer in Charge of the Office and as per instruction of Shri Sahay, the Peon attached to the Sales Centre named Lalan Nonia used to keep the money realised from the customer in the drawer of the table under lock and key and which was his duty to deposit the same in the Area Office. The amount received by the concerned workman was thus handed over to Lalan Nonia the Peon for depositing the same in the Area Office as per direction of the Sr. Sales Officer Shri R. N. Sahay but in spite of all these the Enquiry Officer on conclusion of the domestic enquiry held the concerned workman to be guilty of the charges levelled against him. The concerned workman was, however, acquitted in the criminal trial started against him for identical charges but prior to that as he was dismissed from service on the basis of report submitted by the Enquiry Officer he approached the management for his reinstatement in service. The management assured him to consider his prayer for his reinstatement in service but even after conclusion of the criminal trial in which the concerned workman was not found guilty and acquitted he was not at all reinstated by the management. In the meantime, Sales Assistant N. K. Chouhan who was also dismissed raised an industrial dispute before the ALC (C), Dhanbad which was referred to this Industrial Tribunal and registered as Ref. No. 23/95. The learned Tribunal passed an Award on 28-8-85 in favour of Shri Chouhan directing the management to reinstate him in service with full back wages. The concerned workman represented before the management for his reinstatement with such full back wages in pursuance of the Award passed by the Industrial Tribunal in the dispute raised by Shri Chouhan but without any effect. Finding no other alternative the union to which the concerned workman belongs raised an industrial dispute before the ALC (C), Dhanbad. Attempt for conciliation was made but because of the adamant attitude of the management such attempt ended in failure for which a failure of conciliation report was submitted to the Government of India, Ministry of Labour which was pleased to refer the dispute to this Tribunal for adjudication on the point mentioned in the schedule. The action of the management in dismissing the concerned workman was illegal, arbitrary, unjustified and against the principles of natural

justice. In addition it was too harsh and disproportionate for the alleged offence for which the concerned workman has prayed for an Award in his favour and thereby granting relief prayed for his reinstatement in service with full back wages and with all other consequential benefits.

3. The management has also filed W.S. wherein it has challenged the maintainability of the present reference and at the same time has made out a case which may be stated as follows :—

According to the management the concerned workman Shri A. K. Dutta was working as clerk at Dhansar Sales Centre in the year 1982-83 on 24-1-83 and 25-1-83. He was on duty during the second shift from 2 P.M. to 10 P.M. along with his co-worker Shri N. K. Chouhan and that one Lalan Nonia was the Peon in that shift on those two days. The management has stated in the W.S. that in the Sales Centre the parties purchasing coal used to deposit the Bank draft and relevant despatch order for certain quantity of coal to be loaded and transported through track but in the process of loading the quantity of the coal was/is not likely to tally with the quantity of coal for which payment used to be made through Bank draft and value of excess coal loaded on the lorries used to be assessed after weighment and the excess amount in the cash used to be deposited in the Sales Centre with the employee of the management and on those two relevant date was required to be deposited with the concerned workman and his co-worker Shri N. K. Chouhan. The responsibilities of the clerk like the concerned workman and his co-worker Shri Chouhan was to receive the D.O., Bank draft from the parties and to realise balance amount in cash towards the price of the excess coal loaded in lorry, prepare account, to make statement in respect of the same etc. and the statement and Bank draft, cash realised from the customer was required to be kept in the iron safe of the Area Office Sales Centre under lock and key during night hours and in the morning of the following day it was their responsibility to deposit the Bank draft the D.O., statement of account of the cashier at the area office.

On 24-1-83 the Bank draft statement of the cashier received from the customer were not deposited on the following day i.e. on 25-1-83 and the concerned workman and his co-worker Shri Chouhan kept the same in the drawer of their respective table with the intention of misappropriating the same in connivance with the each other and the Peon on duty Shri Nonia, who were on duty at the Sales Centre during second shift on 25-1-83 taking advantage of the holiday on 26-1-83 and on the following day i.e. on 27-1-83 they made out a false case that the amount kept in the drawer of the table which they realised from the customer on 24-1-83 and 25-1-83 had been stolen away at any time on 26-1-83 or in the morning of 27-1-83 thereby admitting the fact of not keeping the amount in the iron safe under lock and key and thereunder of retaining the key with them as a result of which the management suffered financial loss to the extent of Rs. 41,945.14 P. The concerned workman was served with a chargesheet on 29-1-83 for commission of misconduct of theft, fraud, dishonesty in connection with the employer's business or property besides other misconduct mentioned in the chargesheet including that of abetment of misconduct. The concerned workman submitted his reply to the chargesheet on 1-12-1983 denying the allegation levelled against him but on his defence taken by him that the charges levelled against him were false. The chargesheet was exhaustive and the contention of the concerned workman in his reply was that he did not commit any misconduct of theft, fraud or dishonesty by way of general denial which in fact indicated complicity in the matter of misappropriation of the amount and the amount for which the concerned workman was responsible was Rs. 10,915.52P. The concerned workman in his reply to the chargesheet has not made out any case that it was not his duty to deposit the amount with the cashier or the Area Office. He has also not denied the realisation of amount of Rs. 10,912.52P. from the customer and has also omitted to mention the circumstances under which he did not deposit the amount till the time of issuance of chargesheet. The management, however examined the matter in reply to the chargesheet and decided to hold a

departmental enquiry relating to the same and for that purpose appointed Shri S.N.P. Sinha, Personnel Manager (M.P. & W) as Enquiry Officer for purpose of conducting departmental enquiry relating to the chargesheet issued against the concerned workman and others.

The departmental enquiry was conducted on a number of days and the concerned workman fully participated in that enquiry proceeding. The statement of witnesses on the side of the management were recorded in the presence of the workman, they were given full opportunity to cross-examine those witnesses and also to adduce oral as well as documentary evidence in their defence. The concerned workman never raised any objection relating to the proceeding of the enquiry which was in accordance with the principles of natural justice.

The Enquiry Officer gave his finding holding the concerned workman guilty of the misconduct and the management on consideration of the finding as well as gravity of the misconduct and other facts and circumstances decided to dismiss the concerned workman from his service. Accordingly, the concerned workman was dismissed from his service by letter dt. 25-11-1983.

The management has also made out a case that neither the concerned workman nor any union on his behalf raised any industrial dispute over the dismissal of the concerned workman till 1991 and it was only 1992 the sponsoring union made a complaint before the ALC(C), Dhanbad relating to the dismissal of the concerned workman from his service with effect from 25-11-1983 and ultimately the present dispute was referred in the year 1995 i.e. after lapse of more than 12 years after the cause of action arose. The delay involved in raising the present dispute extinguishes the right of the concerned workman to raise an industrial dispute and also to defeat the remedy for which the management has claimed that in view of long delay and laches on the part of the concerned workman the present reference is liable to be rejected summarily without granting any relief to the concerned workman.

4. In the rejoinder the management has denied the contents of para 1 and 2 as not fully correct. The chargesheet was no doubt issued to the concerned workman and was also published in the local Awaz paper but not with any such intention as alleged by the concerned workman in his W.S. The management has however abstained from making any comment in respect of para 3 to 5 of the W.S. of the workman on the ground that there are matters of record and so far contents of para 6 and 7 and para 8 to 11 are concerned those are denied as not fully correct. Similar is the claim of the management in respect of contents of para 12 to 16 of the W.S. of the workman. The management have denied the contents of para 17 to the extent that the dismissal of the concerned workman was not at all illegal or contrary to the provisions of the Standing Orders for unauthorised issue of the chargesheet etc. Similar is the contention of the management in respect of the statement of the concerned workman in para-18 of his W.S. and in respect of statement made in para 19 of the W.S. the claim of the management is that the case of the concerned workman cannot be compared with that of Shri N. K. Chouhan against whom also departmental enquiry was started as Shri N.K. Chouhan raised industrial dispute immediately and thereby made attempt to establish his innocence before the authority of the Court but the concerned workman failed to prove his innocence allowed time to be killed for a decay to ventilate his grievance before the authority. In addition he has made attempt in his reply to the chargesheet in respect of the charges levelled against him. The management has claimed that the contents of para 20, 21 and 22 of the W.S. filed by the concerned workman are incorrect. The order of dismissal passed by the management against the concerned workman with effect from 25-11-83 was not at all illegal, arbitrary, vindictive unjustified or contrary to the principles of natural justice and as such the same did not amount to anti-labour policy of the management and on all these grounds claimed that the concerned workman is not at all entitled to any relief prayed for which an Award to that effect against the concerned workman should be passed.

5. The concerned workman has also filed rejoinder in reply to the W.S. of the management wherein the concerned workman has claimed that the present reference is quite maintainable and at the same time the workman has denied the state-

ment of the management made in different paras such as 3 to 7 and other paras. In doing so the concerned workman has claimed that on 24-1-1983 and 25-1-1983 the concerned workman was on leave. In addition the concerned workman has also stated in the rejoinder that the parties purchasing coal were depositing bank draft to the Sales Officer and not to the concerned workman. It was not at all his duties to keep the Bank draft and the cash realised in safe custody. He did not receive the Bank draft from the customer on 24-1-83 and as such the allegation of any misappropriation of the amount in connivance with the co-worker and the Peon Shri Nonla etc. are all false. The workman has claimed in the rejoinder that it is false to say that the amount was not kept under lock and key. In fact the amount was kept under lock and key but was under either during night time or at any other time on the holiday for which none of the workman attached to the Sales Centre was responsible. In respect of the statement of the management in para 8 to 17 the claim of the concerned workman is that the statement of the management are false, frivolous and motivated for which the concerned workman denied those statements, by claiming that the chargesheet dt. 29-1-1983 issued against the concerned workman alleging commission of theft, fraud etc. was also frivolous. The explanation in his reply submitted by the concerned workman was quite satisfactory and that there was no admission as claimed by the management in the W.S. In addition the concerned workman has also stated about procedure etc. of depositing the amount, how the amount realised from the customer was kept in this Sales Centre the responsibility of the Officer in depositing the Bank draft, D.O. Cash realised from the customer etc. and ultimately claimed that in fact the order of dismissal was not only to harsh or disproportionate to the alleged offence but was also illegal, arbitrary, unjustified and against the principles of natural justice. The concerned workman in the rejoinder has claimed that one of the worker chargesheeted for similar offence like that of the present workman who raised an industrial dispute which was referred to the Tribunal and Award was passed in his favour. The concerned workman reasonably expected that the management in view of the Award passed by the Tribunal in the case of another workman will consider the case of the present workman sympathetically and would reinstate him with full benefit like that of another workman who raised industrial dispute. But unfortunately the management did not appreciate the Award for which no relief was granted to the concerned workman by the management compelling him to raise a dispute. The delay if any in raising dispute was due to the facts and circumstances mentioned above and because of that delay only the concerned workman should not be deprived of the relief prayed by him in the W.S. Naturally the concerned workman has prayed for an Award in his favour directing the management to reinstate him in service with full back wages and other consequential benefits.

6. The point for decision is whether the concerned workman Shri A. K. Dutta, ex-Clerk of Dhanisar Sales Centre is entitled to an order for reinstatement by answering the first part of the schedule to the reference in negative.

DECISIONS AND REASONS

7. Both parties abstained from adducing any oral evidence, but the parties filed certain documents which have been admitted in evidence and marked as Exts. W-1 and W-2 on the side of the management while Exts. W-1 and W-2 on the side of the workman. Admittedly the concerned workman was an employee of M/s. B.C.C. Ltd. and was attached to Dhanisar Sales Centre wherefrom he was dismissed on the allegations of criminal breach of trust, mis-appropriation of sale proceeds belonging to M/s. B.C.C. Ltd. and other misconducts on the basis of the report submitted by the Enquiry Officer in the domestic enquiry started against the concerned workman and two others on the allegations who gave his evidence to the effect that the charges levelled against the concerned workman and two others having proved the concerned workman was found guilty. So for fairness etc. of the domestic enquiry are concerned those have not been challenged, but the learned lawyer for the workman in spite of that submitted that in a case of present nature the concerned workman should have been dealt with leniently and his case too should have been considered especially when he was acquitted of the charges in a criminal case started against him and his co-workers as well as Peon of the aforesaid Sales Centre of M/s. B.C.C. Ltd. Learned Advocate for that purpose has relied upon a decision of Hon'ble Supreme

Court reported in 1989 Lab. I.C. page 1043 wherein the Hon'ble Court was pleased to hold that the decision of a Labour Court for reinstatement of an employee with certain percentage of back wages with a view give him an opportunity to reform himself is not only legal in spite of the fact that the disciplinary enquiry against him was fair but the Hon'ble Court was also pleased to decline to interfere with the finding of the Labour Court for reinstatement of the employee whose service was terminated. On the other hand, the learned Advocate on the side of the management submitted that the concerned workman was attached to the Sales Centre of M/s. B.C.C. Ltd. at Dhansar and it was his duty like that of his co-worker to collect sale proceeds of extra quantity of coal loaded on trucks against the D.O.s., to prepare statement giving full particulars of the collection of the sale proceeds in cash from different customers and thereby to deposit with the Cashier in the Area Office. The concerned workman though collected a sum of Rs. 10,915.52 p. on 25-11-1983 he failed to deposit the same in the Area office with the Cashier there and instead of keeping the same in the iron safe of the Sales Centre under lock and key he allowed the same to be kept in the drawer of his table like that of his co-worker, Shri N. K. Chouhan and that too, as per submission of the learned lawyer, with an ulterior motive to misappropriate the sale proceeds collected on 24th and 25th January, 1983 in collusion with Shri N. K. Chouhan and a Peon attached to the Sales Centre named Shri Lalan Nonia and subsequently made out a case that the sale proceeds in cash kept in the drawer of the respective tables was/were stolen away which can hardly be believed. The concerned workman in collusion with his co-worker Shri N. K. Chouhan and the Peon of the Sales Centre, Shri Lalan Nonia committed the misconduct of theft, fraud or dishonesty in connection with the employer's business and/or property for which a chargesheet was issued against the concerned workman in connection of which a domestic enquiry was held wherein the witnesses on the side of the management were examined in presence of the concerned workman giving him full opportunity to cross-examine those witnesses and also opportunity to adduce evidence on his side meaning thereby participation in that domestic enquiry proceeding and since no complaint in respect of the procedure adopted in the domestic enquiry was made in course of the proceeding he was rightly held guilty of the charges and the management on consideration of the report of the Enquiry Officer as well the gravity etc. of the charges levelled against him and considered it fit to dismiss him from service for which the concerned workman was dismissed from service by letter dated 25-11-1983. Thereafter the concerned workman remained silent for so many years and it was only in the year 1992 the sponsoring union made a complaint before the Asstt. Labour Commissioner (Central) Dhanbad relating to the dismissal of the concerned workman from his service with effect from 25-11-1983. The long delay in raising the dispute tells adversely report against the concerned workman showing his laches and negligence and also indicating the commission of the offence like breach of trust, misappropriation etc. as mentioned in the chargesheet of the disciplinary proceeding. In that view of the matter it was submitted by the learned Advocate that the present reference in view of such delay should be treated as not maintainable and a finding to the effect that the concerned workman is not entitled to any relief should be made and an award to that effect should also be passed.

8. There is no dispute that for self-same allegations a criminal case was started against the concerned workman and his co-worker, Shri N. K. Chouhan as well as the Peon. The concerned workman had been found not guilty in the criminal trial and he was acquitted of the charges framed against him in that trial. There is also no dispute that the co-worker of the concerned workman, Shri N. K. Chouhan raised an industrial dispute which was referred to this Tribunal registered as Reference No. 23 of 1985 and award in that reference in favour of the concerned workman was passed. The management moved the Hon'ble High Court as against that award, but the Hon'ble Court was pleased to refuse interference for which Shri N. K. Chauhan has already been reinstated. The management though produced so many papers including the report of the preliminary enquiry in connection with the alleged incident of theft of cash from Sales Centre and papers relating to the domestic proceedings abstained from producing any document for the purpose of showing as to what prevented the management to

take into consideration the case of the concerned workman immediately after the award was passed in the earlier reference registered on the basis of a dispute raised by his co-worker, Shri N. K. Chouhan or even after acquittal from the criminal trial. It is true that like that of his co-worker, Shri N. K. Chouhan, the concerned workman or the union on his side had not raised the industrial dispute immediately after his acquittal in the criminal case. But the same, to my mind, cannot be treated to be sufficient ground for the management for not considering the case of the concerned workman especially after reinstatement of his co-worker, Shri N. K. Chouhan. The management, to my mind, should have considered the case of the concerned workman of this reference in the matter of his reinstatement suo-moto without waiting for any reference after raising of a dispute either by the concerned workman by any union for him. It is true that the fairness etc. of the domestic enquiry have not been challenged, yet it cannot be held because of that the finding arrived at by the Enquiry Officer in the domestic enquiry was proper and correct. Inasmuch as in the course of preliminary enquiry in connection with the alleged incident it transpired that in fact the sale proceeds collected from different customers used to be deposited by carrying the same by the Peon attached to the Sales Centre which as I find from the papers find support from the statement of the Senior Sales Officer, Shri R. K. Sahay that although it was the duty of the concerned workman and his co-worker like Shri N. K. Chouhan to collect the price of excess coal loaded on trucks and to deposit the same with the Cashier of the Area Office, but in fact the Peon, Shri Lalan Nonia used to carry the cash from the Sales Centre to the Area Office and that in fact the said Peon is the person to whom the cash was handed over and who kept the same in the drawer of the tables of the respective workers including the concerned workman. The Senior Sales Officer stated so many things in course of his examination in disciplinary proceeding, but curiously enough he has not stated anything as to what prevented him from taking step to step handling of the sale proceeds in cash by a Peon attached to the Sales Centre which is glaring instance of lack of proper supervision of the Senior Sales Officer resulting in financial loss of the company—M/s. B.C.C. Ltd. Learned Advocate on the side of the management tried to submit in course of hearing argument that the decision relied upon by the concerned workman can have no application in his case and the cause is delay in raising the dispute. I have already dealt with the matter earlier I fail to understand what error the concerned workman has committed by not raising the dispute and by expecting that because of reinstatement of his co-worker chargesheeted against like that of the concerned workman and faced criminal trial as of co-accused would be considered by the management which is quite natural for a person of ordinary prudence, and that simply because there was delay in raising the dispute in view of the special circumstance of the case, as discussed above, the concerned workman should have been placed in the same footing like that of his co-worker Shri N. K. Chouhan. Apart from that careful perusal of the documents produced on the side of the management relating to the domestic enquiry held against the concerned workman and his co-worker as well as the preliminary enquiry report admitted in evidence and marked as exhibits on the side of the management will show that in fact the Enquiry Officer failed to give careful consideration of the practice which was going on at the Sales Centre at Dhansar, the manner in which a Peon attached to the Sales Centre had the scope to handle cash of sale proceeds, the statement of witnesses examined on the side of the management in the domestic enquiry etc. and he arrived at a decision holding the concerned workman to be guilty of the charges mentioned in the chargesheet which I cannot but must terms as perverse. Thus on consideration of all these aspects of the case I am inclined to answer the first part of the schedule of the reference in negative. The concerned workman is therefore entitled to the relief prayed for and thereby to an order for reinstatement, but since there was some delay in raising the dispute with 50% of the back wages.

9. Hence, the following award is rendered—

The action of the management of Katras Area of BCCL in dismissing Shri A. K. Dutta, Ex-Clerk at Dhansar Sales Centre from service with effect from 25-11-1983 is not justified. The management is

directed to reinstate the concerned workman in service with effect from 25-11-83 within two months from the date of publication of the award in the Official Gazette and pay him 50% of the back wages as well as other consequential benefits, such as, continuity of service etc.

In the circumstances of the case there will be no order as to cost.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का.आ. 1718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म. एयर इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-20030/09/95-आईआर (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

S.O. 1718.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Air India and their workman, which was received by the Central Government on 7-8-98.

[No. L-20030/09/95-IR(C-D)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
CHENNAI

Thursday, the 23rd day of July, 1998

Industrial Dispute No. 69 of 1996

PRESENT :

Thiru S. Ashok Kumar, M. Sc., B.L., Industrial Tribunal.

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the Management of Air India Ltd., Madras)

BETWEEN

Shri D. Michael,
S/o Late Dakshinamurthy,
4/92, Mangala Amman Koll Street,
St. Thomas Mount,
Madras-13.

AND

The Manager,
Air India International,
Meenambakkam,
Madras.

REFERENCE :

Order No. L-20030/09/95-IR(Coal-I), Ministry of Labour,
dated 23-8-96, Government of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru K. Srinivasan, Advocate appearing for the

workman, upon perusing the reference, claim statement and other material papers on record and the management being absent, and set ex-parte, this Tribunal passed the following :

AWARD

This reference has been made for adjudication of the following issue :

"Whether Shri D. Michael was an employee of Air India Ltd. ? If so, whether he had put in sufficient period of employment to claim the benefits of Section 25-F of the I.D. Act, before his alleged suspension on 1-12-1981 ? If so, to what relief is the workman entitled ?"

Mr. Castro filed change of vakalat, for petitioner. WWI examined. Ex. W-1 and W-2/series marked. Claim proved. Award passed. No costs.

Dated, this the 23rd day of July, 1998.

THIRU S. ASHOK KUMAR, Industrial Tribunal
WITNESSES EXAMINED

For Petitioner—workman :

W.W. 1 : D. Michael.

For Respondent—management : None.

DOCUMENTS MARKED

For Petitioner—workman :

Ex. W-1/26-6-95 : Petition given by petitioner to Labour Commissioner (xerox copy).

W-2/31-7-95 series : Notices sent by Labour Commissioner to petitioner (xerox copies).

For Respondent management : Nil.

नई दिल्ली, 7 अगस्त, 1998

का.आ. 1719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म. सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-24012/10/87-डी-IVबी/आईआर (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 7th August, 1998

S.O. 1719.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Govt. Industrial Tribunal, (No.-2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C.L. and their workman, which was received by the Central Government on 7-8-98.

[No. L-24012/10/87-D.IVB/IR(C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under sec. 10(1)(d)
(2A) of the Industrial Disputes Act, 1947.

Reference No. 233 of 1987

New Delhi, the 7th August, 1998

PRESENT:

Employers in relation to the management of
Churi Colliery of M/s. Central Coalfields
Ltd.

AND

Their Workmen

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

APPEARANCES:

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : Shri D. K. Verma, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, the 24th July, 1998

AWARD

By Order No. L-24012(10)/87-D.IV(B) dated 10-8-1987 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-sec. (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Management of Churi Colliery of M/s. Central Coalfields Ltd. in dismissing the services of Shri Takdirwa Lohar (Mahto) with effect from 16-5-86 is justified? If not, to what relief the workman concerned is entitled?"

2. The order of reference was received in this Tribunal on 1-9-1987. After notice to the parties, they filed their respective written statements, rejoinders and documents. When the case was fixed for hearing, the learned Advocate for the concerned workman submitted that he had got no instruction either from the workman or from the sponsoring union and hence he prayed to dispose of the case.

3. Since neither the concerned workman nor the sponsoring union is interested to prosecute the case, I render a 'no dispute' award in this reference case.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 अगस्त, 1998

का आ. 1720—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिक्कूरिटी प्रिंटिंग प्रेस, हैदराबाद के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[स. एल-16012/3/96-आई आर (सीयू)]

के.बी.बी. उष्णी, डैस्क अधिकारी

S.O. 1720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Security Printing Press, Hyderabad and their workman, which was received by the Central Government on the 7-8-98.

[No. L-16012/3/96-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I
AT HYDERABAD

PRESENT

Sri C. V. Raghavaiah, B.Sc., B.L., Industrial
Tribunal-I.

Dated : 2nd day of July, 1998

INDUSTRIAL DISPUTE NO. 33 OF 1997

BETWEEN

Shri P. Tirupathi, H. No. 8-2-269/19/

685-A, Indira Nagar, Road No. 2,

Banjara Hills, Hyderabad

..Petitioner

AND

The General Manager, Security Printing

Press, Mint Compound, Hyderabad-500 004.

..Respondent

APPEARANCES:

Petitioner in person.

Sri P. Damodar Reddy, Advocate for Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-16012/3/96-IR(DU) dt. 26-6-1997 referred to the following disputes U/s. 10(1)(d) and 2(A) of Industrial Disputes Act, 1947 for adjudication :

"Whether the action of the Management of Security Printing Press, Hyderabad in terminating the service of Sh. P. Tirupati with effect from 27-6-1992 is justified? If not what relief the workman is entitled?"

2. This Tribunal registered the reference as I.D. 31 of 1997. Both the parties on receipt of notices made their appearance and filed their pleadings. The petitioner appeared in person while the respondent engaged counsel.

3. The workman hereinafter called the 'petitioner' filed a claim statement contending as follows : The petitioner was appointed as casual labour on daily wages of Rs. 12.75 per day of 8 hours w.e.f. 26-11-86 vide Security Printing Press Order No. 15 of 25-11-86 and extended the job from 26-12-86 to 10-1-87. He was terminated from 10-1-87 A. N. Again he was appointed on casual basis for a period of 60 days

on daily rate of Rs. 33.50 P.M. from 1-2-1990. He was again appointed for a period of 30 days from

1-4-90 on a daily rate of Rs. 34.50ps. He has further worked as per the details given below :

S. No.	Order No.	Date	Period	No. of days	Amount per day	Paid
						Rs. Ps.
1.	61 A	31-1-90	1-2-90	60		33.50
2.	4	1-4-90	2-4-90 to 1-5-90	30		34.50
3.	4	8-5-90	8-5-90 to 7-6-90	30		34.50
4.	6	23-6-90	25-6-90 to 24-7-90	30		34.50
5.	—	19-11-90	19-11-90 to 17-1-91	60		34.50
6.	28	7-2-91	8-2-91 to 8-4-91	30		35.75
7.	Spl/A 1/19 91/586	13-5-91	14-5-91 to 27-6-91	45		37.75
8.	Spl/A 1/19 91/4199	30-12-91	1-1-92 to 14-2-92	45		40.00
9.	Spl/A 1/19 92/4197	14-2-92	2-3-92 to 15-4-92	45		40.00
10.	Spl/A 1/19 92/623	21-5-92	13-5-92 to 26-6-92	45		42.75

Subsequent to 26-6-92, no orders received by the petitioner either extending or terminating his service. The petitioner further contended that he has not filed O.A. 152/93 before the Central Administrative Tribunal regarding regularisation of service etc., but his signature was forged by somebody. The respondent has not regularised his service inspite of repeated representations. The petitioner thus prayed to direct the respondent to reinstate and pay back wages and attendant benefits to him with continuity of service.

4. The respondent filed a counter contending inter alia that it is carrying out the sovereign functions of welfare state that it is part and parcel of Ministry of Finance Government of India and its activities cannot be termed as 'Industry' as such the provisions of the Industrial Disputes Act are not applicable but however admitted that the petitioner worked purely on casual basis as vendor (Group D) as stop-gap-arrangement during the process of filling up the post of vendor on regular basis through employment exchange and as per recruitment rules of the post during the following period :

1.	1-2-90 to 31-3-90	60 days
2.	2-4-90 to 1-5-90	30 days
3.	8-5-90 to 6-6-90	30 days
4.	25-6-90 to 24-7-90	60 days
5.	19-11-90 to 17-1-91	60 days
6.	8-2-91 to 8-4-91	60 days
7.	14-5-91 to 27-6-91	45 days
8.	1-1-92 to 14-2-92	45 days
9.	2-3-92 to 15-4-92	45 days
10.	13-5-92 to 26-6-92	45 days

and he has earlier worked as casual labour for 46 days from 2611-86 to 11-1-87. According to the respondent the engagement of the petitioner was done purely on ad-hoc basis with a condition that he would not acquire any right for regular appointment. He further contended that as per Government of India orders contained at Para-2 (iii) on page 215 of Swamy's Manual on Establishment and Administration, "Casual Labour recruited in an office/establishment directly without reference to the Employment Exchange should not be considered for appointment to regular establishment unless they have registered themselves in employment exchange office and as per the same reference casual labour may be given benefit of 2 years continuous service if he has put in 240 days of service as casual labour (including break of service) during each of the two years service.

5. The respondent further contended that petitioner did not work for the minimum period of 240 days in any year to become eligible for regular appointment. It also contended further that the petitioner along with other casual labourers had filed O.A. No. 152/93 on the file of Central Administrative Tribunal, Hyderabad seeking regular appointment but the same was dismissed on the ground that they have not worked for a period of 240 days in any year and thus not eligible for regular appointment under the provisions of Industrial Disputes Act. The Tribunal upheld the action of the respondent and made it clear that the petitioner and others are not eligible for relief under Industrial Disputes Act that the said facts were recorded in minutes of conciliation proceedings before the Regional Labour Commissioner (Central) Hyderabad and the order of Central Administrative Tribunal operate as res judicata as such the petitioner is not entitled to any of the reliefs sought for. The respondent thus prayed for dismissing the petition.

6. The petitioner examined himself as WW1 and filed Ex. W1 to W20. The administrative officer-cum-Accounts Officer of respondent Security Printing Press is examined as M.W1 and filed M1 to M7.

7. The points for consideration are :

1. Whether the action of the respondent in terminating the service of the petitioner from 26-6-92 is justified.
2. Whether denial of the respondent in regularising the services of the petitioner is justified ?
3. Whether the claim of the petitioner is barred by res judicata in view of the order of Central Administrative Tribunal, Hyderabad in O.A. No. 152/93 ?

Heard the respondent, no arguments advanced on behalf of the petitioner.

8. Point No. 1 : The admitted facts as revealed from the evidence placed on record : are the Petitioner was appointed as temporary casual labour on a day's rated wage alongwith 23 others for a period of 30 days with effect from 26-11-86 under Ex. W1 dairy order No. 15 of 25-11-1986 in respondent office. His service was extended for a period of 16 days from 26-12-86 to 10-1-86 under Ex. W2 D.O. No. 17 of 22-12-86. He has been informed under the original order that his service can be terminated at any time within 30 days without notice and assigning reasons. After termination from service w.e.f. 10-1-87 his name was removed from Muster rolls. As per Ex. W3 dairy order 19 of 8-1-87. He was again appointed for a period of 60 days w.e.f. 1-2-90 under Ex. W4 dairy order 61A of 31-1-90 informing him that his appointment is purely temporary and on casual basis and liable to be terminated without notice. On 10-1-90 he has appointed to perform duties of vendor for 30 days from 2-4-90 to 1-5-90 under Ex. W5 order dt. 1-4-90. On 8-5-90, he was again appointed as vendor for 30 days from 8-5-90 under Ex. W6 Order No. 4 of 8-5-90. On 23-6-90, he was appointed on casual basis to perform duties of vendor from 25-6-90 to 24-7-90 for 30 days under Ex. W7 order No. 6 of 23-6-90. Under Ex. W8 order dated 19-11-90 he was appointed from 19-11-90 to 17-1-91 for period of 60 days. Under Ex. W9 order No. 28 dated 7-2-91, he was appointed from 8-2-91 to 8-4-91 for 60 days to perform duties of vendor on temporary basis. Again under Ex. W10 Order No. SPF/AI/19/91/580 dated 13-5-91 he was appointed for 45 days from 14-5-91 to 27-6-91. Under Ex. W11 order dated 30-12-91 he was appointed for 45 days from 1-1-92. Under Ex. W12 order dated 4-2-92 he was appointed for 45 days from 2-3-92 to 15-4-92 and finally under Ex. W13 order No. SPP/AI/19/92/623 dated 21-5-92, he was appointed for a further period of 45 days from 13-5-92 to 22-6-92. Under all the above orders he has been specifically informed that he is appointed on casual basis to discharge duties of vendor and his services are liable to be terminated without notice and assigning reason. Ex. W14 and W15 are the gate passes issued to the petitioner. He was not taken into service after 26-6-92 inspite of sending representation as borne out

by Ex. W16 to W18; Ex. W19 is the minutes of conciliation proceedings.

9. It is the contention of the petitioner that his termination of service from 26-6-92 is not justified as he has worked for more than 240 days without any break of service. The case of the respondent on the other hand is that the petitioner never worked for a period of 240 days in a year and he was not engaged subsequent to 26-2-92 for want of work or due to recruitment policy and it is not a case of retrenchment within the meaning of Sec. 2(oo) of the Industrial Disputes Act.

10. On a careful consideration of evidence on record, I am satisfied that it is a case of discharge simplicitor but not retrenchment as the termination is not actuated by way of victimisation due to unfair labour practice. Further I am of the view that the petitioner has not put in 240 days of continuous service in any year before the date of disengagement. The various appointment orders marked by the petitioner and oral evidence of WW1 and MW1 would clearly show that he was taken as casual labour to discharge the duties of vendor on adhoc basis by informing him that his service may be terminated at any time without notice and assigning reasons. The petitioner accepted the terms and conditions of temporary appointment. For want of work the petitioner appears to have been disengaged. This being not a case of retrenchment, notice pay and retrenchment compensation are not payable as there is no violation of the provision of Sec. 25-F of the Act. I am of the view that the petitioner on whom heavy burden lies fails to discharge the same by showing that he worked continuously for a period of 240 days in any year before the date of termination or he was retrenched from service in violation of mandatory provision of Sec. 25-F of I.D. Act. The evidence of petitioner further reveals that he is gainfully employed as he is working as casual labour by supply sand etc. for construction of building. I therefore feel that the action of respondent in terminating service of the petitioner in the shape of disengaging him from 26-2-92 will not amount to retrenchment and that there are no grounds to hold that his action is not justified. The point is answered accordingly against the petitioner.

11. Point No. 2 : In view of my finding on point No. 1, I am of the view that the service of the petitioner cannot be regularised as he has not worked for 240 days in any calendar year during each of 2 years service as per para 2 of the Government of India order at page 215 of Swamy's Manual on Establishment and recruitment Policy of Casual labour as stop gap and as he was not sponsored by employment exchange or placed any evidence that he registered himself in any employment exchange office. The point is answered against the petitioner.

12. Point No. 3 : It deals with the question whether the order in O.A. 152/93 of the Central Administrative Tribunal, Hyderabad operate as res judicata. It is contended on behalf of the respondent that the petitioner and other casual workers filed O.A. 152/93 on the file of Central Administrative Tribunal for regularisation of their service unsuccessfully as per Ex. M7 order that the said order became final and that hence, this reference seeking same relief is not

maintainable as the petitioner cannot agitate the same claim in a different forums in support of this contention he placed reliance on Ex. M1 to M3, M6 and M7. The petitioner on the other hand contended that he has not filed any petition before the Central Administrative Tribunal and its signature was forged.

13. The petitioner as WW1 deposed that he never approached the Central Administrative Tribunal for the redressal of its grievance i.e., regularisation except the Asst. Commissioner of Labour Central as borne out by Ex. W19 and made representations to the employer as borne out by Ex. W16 to 18 and his signature is forged in the original of Ex. M1 Vakalat, original of Ex. M3 petition in O.A. No. 152/93. MW1 on the other hand deposed that the petitioner along with the temporary employees filed O.A. 152/93 in the Central Administrative Tribunal and invited adverse finding as borne out by Ex. M7. Thus we have conflicted oral evidence. It is therefore to be seen whether the petitioner filed O.A. No. 152/93.

14. A perusal of Ex. M3 would show that petitioners and some other employees filed the above application before the Central Administrative Tribunal for not referring their case to the Industrial Tribunal and questioning the action of the respondent herein for violation of Sec. 25-F and H of Industrial Disputes Act on the ground that they have worked for more than 240 days continuously and sponsored by the employment exchange. The Government of India represented by The petitioner however denied his signature in Exponent. The regional labour commissioner is R2, the respondent herein is R3 the District Employment Exchange Officer Labour, Hyderabad is R4 in the said proceedings. Ex. M1 is the certified copy of Vakalat said to be containing the signature of the petitioner. The petitioner however denied his signature in Ex. M1 and M3. He however admitted that on one occasion he went to the office of Sri Rajanna advocate along with other casual labour but he refused to sign in the Vakalat and petition to be filed before the Tribunal. He has however not examined the said counsel. On the other hand his admitted signature was taken in the court i.e. Ex. M2. A comparison of his signature in Ex. M2 with that of the signature in Ex. M1 would show that they are similar in all respects of really signature of the petitioner is forged in original of Ex. M1 Vakalat as well as in the original of Ex. M3 application, the petitioner would have definitely taken action against the counsel as well as other Co-workers. I have no hesitation to hold that the petitioner is denying his signature and that he filed petition before the Central Administrative Tribunal to avoid adverse finding given by it.

15. A perusal of Ex. M7 order would show that the case of the petitioner was considered is para 3 and finding given that he has not worked for 240 days in any year as such there is no violation of Industrial Law by the respondents therein. The Central Administrative Tribunal finally refused the prayer of reinstatement with a direction to consider the claim of the petitioner herein for reappointment on casual basis in preference to the freshers. Thus a definite finding is given by the above Tribunal which is a competent authority that there is no violation of

Industrial Law and the termination of service of the petitioner who has not worked for 240 days in any year would not amount to retrenchment within the meaning of Sec. 2(oo) of the I.D. Act. I am of the view when two forums are available to the aggrieved party for the redressal of his grievance, that if he invited adverse finding from one of the forums he cannot agitate for the same relief in another forum. This view of mine is fortified by the decision in Punjab Co-operative Bank Limited vs. R. S. Bhatia (Dial) by LRs L1975(31) FLR page 326(S.C.). I therefore hold that the claim of the petitioner for reinstatement is barred by principle of res judicata. The point is answered accordingly.

16. In the result an Award is passed holding that the petitioner is not entitled to any relief due to operation of principle of res judicate.

Written and given under my hand, this 2nd day of July, 1998.

C.V.R. RAGHAVAYYA, Industrial Tribunal-I,

Appendix of Evidence

Witnesses Examined for the Petitioner	Witnesses Examined for the Respondent :
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W.W1 P. Tirupathi M.W1 N. S. Ranganath

Documents marked for the Petitioner :

- Ex. W1 Dairy order No. 15 dt. 25-11-86 issued to P. Tirupathi and others regarding appointment of Temporary casual labourers.
- Ex. W2 Dairy Order No. 17, dt. 22-12-86 issued to P. Tirupathi and others regarding appointment of casual labours.
- Ex. W3 Dairy Order No. 19 dt. 8-1-87 issued to P. Tirupathi and others regarding appointment of temporary casual labours.
- Ex. W4 Dairy Order No. 61A dt. 31-1-90 issued to P. Tirupathi regarding appointment of Temporary casual labour.
- Ex. W5 Dairy order No. 1 dt. 1-4-90 issued to P. Tirupathi appointing as Casual Labour.
- Ex. W6 Dairy order No. 4 dt. 8-5-90 issued to P. Tirupathi appointing as casual labourer.
- Ex. W7 Dairy Order No. 6 dt. 23-6-90 issued to P. Tirupathi appointing as casual labourer.
- Ex. W8 Office order dt. 19-11-90 issued to Sri P. Tirupathi regarding appointment of Temporary Vendor.
- Ex. W9 Dairy Order No. 28 dt. 7-2-91 issued to P. Tirupathi appointing him as casual labour.
- Ex. W10 Office Order dt. 13-5-91 issued to P. Tirupathi appointing him as purely temporary vendor.

- Ex. W11 Office Order dt. 30-12-91 issued to P. Tirupathi appointing him as purely temporary vendor.
- Effi. W12 Office Order dt. 4-2-92 issued to P. Tirupathi appointing him as purely temporary vendor.
- Ex. W13 Office Order dt. 21-5-92 issued to P. Tirupathi appointing him as purely temporary vendor.
- Ex. W14 Entry passes given to WW1 to enter the premises of the Respondent.
- Ex. W/16. Representation dated 16-8-1997 submitted by W.W. 1.
- Ex. W/17. Representation dated 11-6-1996 submitted by W. W. 1.
- Ex. W/18 Representation dated 14-8-1995 submitted by W. W. 1.
- Ex. W/19 Minutes of conciliation Officer.
- Ex. W/26 Judgement dated 13-7-1993 in W. A. No. 1841/91.

Documents marked for the Management :

- Ex. M/1. Xerox copy of Vakalat dt. 7-2-1994.
- Ex. M/2. Signatures of the W.W. 1 obtained in the court
- Ex. M/3 entitled xerox copy of O.A. 152/93, dated 21-5-1992 on the file of C. A. T., Hyderabad.
- Ex. M/4. Xerox copy of appointment order dated 8-5-1990 filed in O. A. 152/93.
- Ex. M/5. Xerox copy of appointment order dated 21-5-1992 filed in O. A. 152/93.
- Ex. M/6. Order of the C. A. T. dated 9-2-1994 in O.A. No. 152/94 and M.A. No. 106/94.
- Ex. M/7. Order dated 29-7-1994 of the C.A. T., Hyderabad branch in O. A. No. 152/94.

नई दिल्ली, 7 अगस्त, 1998

का.आ. 1721—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेंडेंट आफ पोस्ट आफिसेज, इन्दौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-40012/12/90-आईआर (डीयू)]

के.वी.बी. उण्णी, डेस्क अधिकारी

2208 GI/98-9.

New Delhi, the 7th August, 1998

S.O. 1721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sr. Supdt. of Post Offices, Indore and their workman, which was received by the Central Government on the 7-8-1998.

[No. L 40012/12/90-IR (DU)]

K. V. B. UNNY, Desk Officer.

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय,

जबलपुर (म.प्र.)

डी.एन. दीक्षित

पीठासीन अधिकारी

प्र.क्र. सीजीआईटी/एलसीआर/227/1990

श्री शमीम अहमद कुरेशी

भू.पू. चौकीदार,

निवासी : 19, भिखरी मोहल्ला,

इन्दौर-452006 (म.प्र.)

—प्रार्थी

विरुद्ध

प्रवर अधीक्षक,

डाकघर, इन्दौर नगर मंडल

इन्दौर-452001 (म.प्र.)

—प्रतिप्रार्थी

अवार्ड

दिनांकित : 20/07/1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश सं. एल-40012/12/90-आईआर. (डी.यू.) दिनांकित 30/11/90 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है :—

अनुसूची

"Whether the action of the management of Sr. Supdt. of Post Offices, Deptt. of Post, Indore City Division in terminating the services of Shri Shamim Ahmed is justified? If not, to what relief the concerned workman is entitled to and from what date?"

2. श्रमिक शमीम अहमद, प्रतिप्रार्थी सीनियर सुपरिन्टेंडेंट आफ पोस्ट आफिस, इन्दौर के कार्यालय में कंटेनरजैसी पद पर कार्यरत था तथा उससे चौकीदार के पद पर कार्य लिया जा रहा था। वह इयूटी पर शाम 6 बजे से सुबह 6 बजे तक रहता था तथा उसका काम भवन में रखी गई शासकीय वाहन की देखभाल करना था। दिनांक 16-4-88 को रात्रि 09-35 पर मोहम्मद अब्राहिम खां, मैकेनिक ने गाड़ी सी.आई.आई.

7132 निकाखी और रातभर यह गाड़ी गायब रही। सुबह 6-45 पर श्रमिक शमीम अहमद ने सुपरबाइजर को गाड़ी गायब होने की सूचना दी। दिनांक 6-5-88 को श्रमिक की सेवायें समाप्त कर दी गई। श्रमिक के अनुसार उसे छंटनी मुआवजा भत्ता नहीं दिया गया तथा उसके विरुद्ध कोई विभागीय जांच नहीं की गई है। उसकी सेवा समाप्ति का आदेश अवैधानिक है। श्रमिक के अनुसार वर्ष 86 में उसे सेवा समाप्ति का नोटिस दिया गया था, जिसके विरुद्ध वह केन्द्रीय प्रशासनिक अधिकरण में गया था और केन्द्रीय प्रशासनिक अधिकरण ने आदेश दिया था कि जब भी ग्रुप-डी में पद रिक्त हो, श्रमिक को दिया जाये। इसके विपरीत उसके उच्च अधिकारियों ने न्यायालय आदेश की अवहेलना करते हुए उसे दिनांक 6-5-88 को सेवा से पृथक कर दिया। श्रमिक चाहता है कि उसे इस पद पर पुनः सेवा में लिया जाये तथा मई, 88 से अभी तक पूरा वेतन और भत्ते दिनाये जायें।

3. प्रतिप्राप्ति प्रवर अधीक्षक, डाकघर, इन्दौर नगर मंडल के अनुसार श्रमिक का काम बाहन की देखभाल का था। दिनांक 16-4-88 को जब श्रमिक ड्यूटी पर था, बिना अधिकार मोहम्मद अब्राहिम बाहन सीआईआई-7132 ले गया तथा यह बाहन लकड़ी की खोरी करता हुआ बन अधिकारियों ने पकड़ा। 24 महीनों तक यह बाहन जल रहा। श्रमिक ने अपनी ड्यूटी का पालन नहीं किया, इस कारण उसे पदमुक्त किया गया। श्रमिक के विरुद्ध कोई विभागीय जांच नहीं हुई, क्योंकि वह केन्टेनजेंसी कर्मचारी था। श्रमिक ने केन्द्रीय प्रशासनिक अधिकरण को यह नहीं बताया कि उसकी सेवायें समाप्त हो गई हैं तथा न्यायालय को अंधकार में रखकर आदेश प्राप्त किया। श्रमिक का आवेदन सारहीन होने से निरस्त होने योग्य है।

4. श्रमिक ने अपने शपथपत्र के परीक्षण में स्वीकार किया है कि उसकी यह ड्यूटी थी कि वह समान की देखभाल करे। यह भी स्वीकार किया है कि एक मैकेनिक शासकीय बाहन ले गया था। यह भी स्वीकार किया है कि जब बाहन सुबह तक नहीं आया तब उसने रिपोर्ट की। श्रमिक ने अपने प्रतिपरीक्षण में स्वीकार किया है कि उसकी नियुक्ति पार्ट-टाईम चौकीदार की थी।

5. श्रमिक अंशकालिक चौकीदार था। इस कारण उसके विरुद्ध विभागीय जांच नहीं की गई। प्राप्ति ने शासकीय बाहन अपने भायो को ले जाने दिया और इसकी सूचना अपने अधिकारियों को नहीं दी। श्रमिक को जो आदेश दिया गया है वह दिनांक 6-5-88 का है और इसमें वह उल्लेख है कि उसकी सेवाओं की आवश्यकता न होने से उसको पृथक किया जा रहा है।

6. श्रमिक ने विभागीय के विरुद्ध केन्द्रीय प्रशासनिक अधिकरण में एक अवमानना याचिका दायर की थी, इसकी सुनवाई इस न्यायालय ने की और आदेश दिनांक 16-11-94 के द्वारा निरस्त किया, इसमें यह उल्लेख

है कि केन्द्रीय प्रशासनिक अधिकरण का आदेश दि. 3/8/90 जब न्यायालय ने लिखा तब उसे यह ज्ञात नहीं था कि श्रमिक की सेवायें दिनांक 6-5-88 को समाप्त की गई थी। इस प्रकार प्रबंधन ने किसी तरह अवैधानिक कृत्य नहीं किया।

7. श्रमिक केन्टेनजेंसी पार्ट-टाईम बाय कर रहा था और उसे निकालने का पूरा अधिकार विभाग को है। मेरे मत में विभाग ने कोई अनियमितता नहीं की है।

8. अर्वाई दिया जाता है कि श्री शमीम अहमद की सेवायें समाप्त करने का आदेश दिनांकित 6-5-88 विधिवत् है और इसमें हस्तक्षेप की आवश्यकता नहीं है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

9. अर्वाई की प्रतिभा नियमानुसार भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डी. एम. दीक्षित, पीएमसीन अधिकारी

नई दिल्ली, 7 अगस्त, 1998

का.आ. 1722.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.डी. ओ. (फोन्स) टेलीफोन, हैदराबाद के प्रबंधन के संघर्ष नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-98 को प्राप्त हुआ था।

[सं. एल-40012/121/95-आई आर (डीयू)]

के.वी.बी. उर्णा, डेस्क अधिकारी

New Delhi, the 7th August, 1998

S.O. 1722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.D.O. (Phones) Telecom., Hanumakonda and their workman, which was received by the Central Government on the 7-8-98.

[No. L-40012/121/95-IR(DU)]

K.V.B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I
AT HYDERABAD

Present :

Sri C. V. Raghavaiah, B.Sc., B.L., Industrial Tribunal-I, Hyderabad.

Dated : 30th day of June, 1998

INDUSTRIAL DISPUTE NO. 74 OF 1996

BETWEEN

Shri Md. Sarwar S/o Md. Muriuza Khan
C/o Sri M. A. Raheem Khan, No. 9-8-63,
Chota Bazar, Kummurwadi, Golkonda
Hyderabad-500 008. . . Petitioner

AND

The SDO (Phones) Telecom,
Hanumakonda, Warangal Distt.
Pin-506 001. . . Respondent

Appearances :

Sri C. Suryanarayana, counsel for the petitioner
Sri P. Damodar Reddy, advocate for the respondent.

AWARD

The Govt. of India, Ministry of Labour, New Delhi by its order dated 30-5-96 No. L-40012/121/95-(RCDU) made this reference U/s. 10(1)(d) and 2(A) of the Industrial Disputes Act, 1947, herein-after called the Act for adjudication of the following Industrial Dispute.

"Whether the action of the management of Sub-Divisional Officer (Phones), Telecommunications, Hanumakonda is justified in terminating the services of Sri Md. Sarwar? If not, to what relief the workman is entitled for?"

This reference has been registered as I.D. 74/96. Both the parties made their appearance on receipt of notices through their counsels.

Earlier, this reference was answered by this Tribunal on 29th November, 1996 holding that the dispute itself is not maintainable and this Tribunal has no jurisdiction to entertain the same on the ground that the respondent Telecommunications Deptt., is not an industry. The reference was answered as above basing on the decision of the Supreme Court in the case of Sub-Divisional Inspector of posts VAIKAM vs. THEYYAM JOSEPH AND OTHERS (1) 1996 FLR page 690. Aggrieved by the above order of this Tribunal, the petitioner/worker filed Writ Petition No. 2978/1998. The Hon'ble High Court by its order dated 18th February, 1998 basing on a later decision of Supreme Court in the case of General Manager, Telecommunication Guntur Vs. A. Srinivas Rao and other I.J. 1997(9) S.C. 234 set-aside the Award passed by this Tribunal holding that the Telecommunication Department is an industry and remanded the matter for fresh disposal on merits. Thus the matter came up before this Tribunal again for passing fresh award.

(2) On behalf of the petitioner, the workman claim statement was filed seeking the reinstatement with the following averments :

The petitioner was initially recruited and employed as Casual Mazdoor under the respondent w.e.f 1st February, 1987. He was continued in the service for 143 days i.e. upto 23rd June, 1987 and thereafter retrenched without any notice on the ground of non-

availability of work. He was not even paid lay-off allowances. His request for re-engagement did not succeed for a long time. He was re-engaged from 1st February, 1989 on which day he was re-appointed and worked continuously upto 31st May, 1989, i.e. for a period of 120 days. His name was shown in the Muster Rolls and was paid wages at 1/30 of the monthly wages of Group 'D' employees at the minimum scale of pay as directed in AIR 1987 S.C. 2342. On 1st June, 1989, he was again retrenched without any valid reason. On repeated representation, the respondent directed the petitioner to the Asstt. Engineer, (Phones) E. 10-B Installation who employed him continuously from 16th October, 1991 till 5th February, 1993. He was however appointed for one week at a time by the Asstt. Engineer, Phones, E. 10-B, Installation without showing his name in the Muster Roll. Further, he was paid far below the wages directed to be paid in the above decision. Further according to the petitioner/worker during the period of five days from 14th May, 1992, he was paid wages in the name of fictitious person and if the employer is directed to produce the relevant payment voucher the name of such fictitious person will be known, and that on 6th February, 1993, he was again retrenched though he was employed for 240 days, without any notice or without paying notice period wages and other terminal benefits as per the mandatory provisions of the Industrial Disputes Act and the termination was affected by verbal order. The petitioner/worker further contended that he approached the Asstt. Engineer for re-engagement but of no avail and he raised Industrial Dispute on 15th May, 1994 for his illegal retrenchment, as a result of which, this reference was made for adjudication of the dispute mentioned in the schedule of the reference. The petitioner thus prayed for setting aside the oral order of retrenchment and to order his reinstatement, for continuity of service, back-wages and other attendant benefits as the termination of his service is void ab initio for non-compliance with the mandatory provisions of the I.D. Act as well as the orders of the former Director General of Posts & Telegraphs.

(3) The respondent/employer filed a counter resisting the claim contending inter alia that the activities of the respondent are sovereign functions of the Welfare state as such cannot be termed as an industry. Hence, the provisions of Industrial Disputes Act, 1947 are not applicable, to the respondent. He further contended that the department engaged Casual Mazdoors as and when works of temporary nature like laying underground cables or construction of overhead alignment are taken up. Whenever there is no work, the casual mazdoors are kept idle, as such their engagement is purely temporary and can be disengaged at any time and it is not a regular recruitment through the employment exchange. He has however admitted that the petitioner was engaged as Casual Labour Mazdoor in his sub-division on 1st February, 1987 and he worked for a period of 140 days i.e. upto 23rd June, 1987 and due to lack of work he was kept idle from 24th June, 1987 and no junior or fresh casual mazdoors were engaged to carryout the development works thereafter. Again the petitioner was engaged as Casual Mazdoor during

the period from 1st February, 1989 to 31st May, 1989 for a period of 119 days to carry out the departmental works as some works became available during that period and details of the period he worked was enumerated in the counter. He further contended that as the work was over the petitioner was kept idle from 1st June, 1989 that he was paid on daily wages basis during the period he worked that at the time of engagement, the petitioner was clearly informed that his engagement was purely temporary that he can be discharged at any time that he will be paid at the prevailing rates that the petitioner has agreed for the same arrangement and in fact he has given the undertaking in writing to that effect. The respondents denied that the petitioner worked continuously for 240 days in any year and also contended that he was not employed for any regular recruitment as such there is no lien over his employment of daily wages. He further took the plea that it is the practice to employ local labour to look after the urgent nature of works.

(3a) He also contended that the Sub-Divisional Engineer, E. 10-B, Telecom Department, Hanumakonda is a necessary party to the proceedings as the petitioner said to have worked in that office as per para 3 of the claim statement and the respondent herein is not a necessary party. He further contended that by way of abundant caution, he has secured information from the office of E. 10-B regarding the allegation made in para 3 of claim statement, though he is in no way liable on behalf of Sub-Divisional Officer, E. 10-B, Telecommunication, Hanumakonda and as per its information during the period of October, 1991, E. 10-B, Exchanged Hanumakonda installation work was in progress and the petitioner offered his services on daily rated mazdoor basis with the said officer as such he was engaged during installation work till the end of January, 1993 and he has however denied that the petitioner worked upto 6-2-1993 in the Office of the Sub-Divisional Officer, Engineer E. 10-B. He also contended that the petitioner was paid once in a week and he worked only for 5 days in a week from 14-5-1992 in the above office and he received the wages in his own name only. He denied that the petitioner was paid for 5 days from 14-5-1992, the wages in the name of fictitious person and the said allegation was made to gain sympathy. He finally contended that the petitioner was not employed of muster rolls and he is not a permanent employee. On the other hand, his engagement as casual mazdoor is subject to availability of work and he has voluntarily agreed for the same without protest. It was also contended that it has to follow regular recruitment policy regarding to reservation, etc. The respondent cannot deviate from the policy of recruitment and show mercy on the petitioner. He finally contended that as per the information of the respondent, the petitioner is gainfully employed and also engaged himself in other profitable avocations from 1-2-1993 onwards elsewhere as such there is no merit in his claim and he cannot insist on reinstatement, as he can procure a more lucrative job elsewhere. The respondent thus prayed for passing the award holding that the claim of the petitioner is without any basis.

4. The following points arise for consideration :

- (i) Whether the reference is not maintainable in view of the facts that the respondent, telecommunications is not an industry ?
- (ii) Whether the action of Sub-Divisional Officer, Telecommunications, Hanumakonda in terminating the services of the petitioner, Md. Sarwar, Casual Mazdoor is justified ?
- (iii) Whether the reference is bad for non-joinder of Sub-Divisional Engineer, E-10-B Telecom Department, Installation, Hanumakonda and for the mis-joinder of the respondent ?
- (iv) To what relief, the petitioner is entitled ?

5. On behalf of the petitioner, the petitioner/worker examined himself as W.W. 1 and one Md. Unas, co-employee as W.W. 2. He has marked further Exs W-1 to W-6. The petitioner deposed to the averments in his claim statement while PW-2 tried to collaborate him. On behalf of the respondent one B. Lingaiah who is working as Sub-Divisional Officer, Phones, since 6th September, 1993 in sub-division office Warangal was examined as M. W. 1. No documents were marked on behalf of the respondent. M. W. 1 deposed to the averments in the counter.

6. Point No. 1 : This point deals with the maintainability of this reference in this Tribunal on the ground, the respondent Telecommunication Department is not an industry. As mentioned above, this point was earlier answered in favour of the respondent by this Tribunal by its order dated 29-11-1996 but the same was set aside by the Hon'ble High Court by its order dated 18-2-1993 in Writ Petition No. 2978/1998 holding that the Telecommunication Department is also an industry as per the latest decision of the Supreme Court reported in J. I. 1997(9) Supreme Court 234. In view of the decision of the High Court this point has become infructuous and the same has to be answered against the respondent holding that the reference is maintainable in this Tribunal.

7. Point No. 2 : The admitted facts as revealed from the evidence placed on record by both the parties are as follows :

The petitioner Md. Sarwar was engaged by the respondent, Telecommunications Department as Casual Mazdoor from 1-2-1987 to 23-6-1987 for a period of 142 days and again for the period from 1-2-1989 to 31-5-1989 for a period of 119 days as borne out by Ex. W-1. No former order of appointment was given to him. He has been engaged by the Sub-Divisional Engineer, Phones, E-10-B, Exchange, Hanumakonda, from 16-4-1991 till 6-2-1993. Thereafter he has not been engaged either by the respondent or by the Hanumakonda exchange authorities. He has thus not been re-employed. Hence, the petitioner made representation to the Asstt. Commissioner of Labour for starting re-conciliation proceedings by giving Ex. W-2. The respondent submitted Ex. W-3, para-wise remarks for which the petitioner/worker filed Ex. W-

4, rejcinder. As the respondent/employer did agree to take back the petitioner worker, the conciliation proceedings failed as borne out by Ex. W-5, Minutes of conciliation and accordingly Ex. W-6 failure report was sent to the Secretary to Government of India, Ministry of Labour, New Delhi by Regional Labour Commissioner which in turn referred this Industrial Dispute to this Tribunal.

8. As per the petitioner, he has been in continuous service for more than 240 days in a year before the date of retrenchment. His service has been terminated without notice, notice period work and without paying retrenchment compensation as such he is entitled to the reinstatement. It is the case of the respondent, that the petitioner was engaged for attending to temporary nature of work like laying underground cables or construction overhead alignment and as and when the work is over he is kept idle and once again engaged whenever works of that nature were taken up and that at the time of the engagement, he was informed in clear terms that his engagement is purely temporary and he can be discharged at any time and the petitioner is agreed for the same. As such it is not a case of retrenchment but termination of service due to non-availability of work. Hence he is not entitled for pay in lieu of notice or retrenchment compensation as required U/s. 25-F of the Act.

9. It is settled law that all retrenchment is termination of service but all termination of service may not be retrenchment. In order to be 'retrenchment' the termination of service has to fall within the ambit of definition of retrenchment U/s. 2(oo) that as per Sec. 25-F of the Act, notice and compensation are condition precedents for retrenchment of a workman and the termination of the service of a workman as a measure of retrenchment without complying the requirements U/s. 25-F of the Act is illegal and the burden of proof that the termination of the service is retrenchment is on the workmen that is to say the employee who claims that he has been retrenched must prove that he has been retrenched from service and it is not for the employer to prove that the discharge or termination of the employee was otherwise than by way of retrenchment. Thus, discharge simplicitor does not amount to retrenchment. If on the other hand the termination of service is actuated by motive of victimisation or unfair labour practice it amounts to retrenchment. Hence, it has to be seen whether the discharge of the petitioner from service either from 31-5-1989 by the respondent or from 6-2-1993 by the Sub-Divisional Officer, Ext. 10-B Exchange Installation Phones, Hanumakonda amounts to retrenchment within the meaning of Sec. 2(oo) of the Act.

10. The evidence of petitioner as W.W. 1 and his co-employee as W.W. 2 and the Sub-Divisional Officer of respondent office as M.W. 1, would clearly go to show that the petitioner was taken only as a Casual Labour for attending to purely temporary nature of work like laying underground cables or construction of overhead alignment and he was discharged as and when there is no work and he is re-engaged on casual basis as and when work of the above type, which is of temporary in nature was taken up. I am of the view that his engagement on casual basis does not confer any entitlement for ap-

pointment on regular basis. It is quite probable that accepting the conditions of the respondent that his engagement was for purely temporary purpose, the petitioner has worked under the respondent. It is obvious that to complete temporary work of laying underground cables and construction of overhead alignment, some persons have been engaged temporarily on casual basis. The petitioner has not examined any of the employees who are engaged along with him to show that he has been taken on regular basis. In this view of the matter it cannot be said that the discharge of the petitioner is discharge by way of retrenchment as it cannot be said that it has been motivated by way of victimisation or otherwise. I therefore, feel that the discharge of the petitioner is a discharge simplicitor. I am of the view that the petitioner cannot be continued in service even after the works of temporary in nature are completed and he can be engaged only when fresh works of temporary nature are taken up from time to time.

(11) The learned counsel for the petitioner has contended that the respondent action amounts to unfair labour practice. It is submitted that though the petitioner worked in the Sub Divisional Office, E10-B, Telecommunication Deptt., Hanumakonda for a considerable period, he was paid less salary and further for a period of 5 days from 14-5-1992, he was paid salary in the name of fictitious person, which amounts to unfair labour practice as such the termination of the service is discharge amounting to retrenchment. In support of the contention, he placed reliance on the decision in CRICKET CLUB OF INDIA AND ANOTHER Vs. V. BALJIT SHYAM AND ANOTHER (1998 LLR page 511) which was however, repelled by the learned counsel of the respondent.

(12) There could be no quarrel regarding the principle of Law canvassed by the learned counsel for the petitioner, if the employer has indulged in unfair practice like paying wages below the prescribed wages and made payment to the petitioner in the name of fictitious person, the termination of service would definitely amount to retrenchment. It has therefore to be seen whether the petitioner has placed sufficient evidence on record to show that he has been paid less wages and he has been paid for 5 days in the name of fictitious person.

(13) The petitioner has no doubt spoken to the above facts when he was recalled for further evidence of the respondent side is alone which was denied by MW1. Except the self-serving statement of MW1, there is no other material on record to show that he was under-paid or he was paid in the name of fictitious person for a period of 5 days from 14-5-1992. He has not examined any of the persons engaged along with him by the Asst. Sub Divisional Engineer, Phones, E10-B, Exchange, Hanumakonda to corroborate his testimony that he was either under-paid or paid in the name of the fictitious person. The petitioner has not even mentioned the name of the fictitious person in whose name he was paid wages; the name of fictitious person was given by the petitioner in the course of his evidence. The evidence of WW2 is not of much help in this regard as he has only spoken to the engagement of the petitioner

worker for two spells by the respondent. I therefore feel that the bald statement of the petitioner that he was under-paid or he was paid in the name of the fictitious person by name Md. Akbar by the Asst. Engineer, E10-B Exchange, Hanumakonda is not sufficient to hold that he has discharged the heavy burden placed on him in proof of the facts that the action of the respondent in terminating his service would amount to retrenchment on the ground that the employer indulged in unfair labour practice.

(14) There can however be no doubt, as rightly argued by the learned counsel based on decided authorities that the I.D. Act covers field of Social Justice as such the matter has to be considered with sympathy and understanding. There can however be no doubt that the petitioner has been in continuous service for a period of 240 days before the date of termination of service as the broken periods of service have to be ignored and actual service rendered by the workman should be treated as continuous service for all purpose including the purpose of Sec. 25-F as was held in the case of MOHAN LAL Vs. MANAGEMENT, BHARAT ELECTRONICS LIMITED, 1981(2) LLJ page 70.

(15) I am of the view, even it is assumed that the respondent has directed the petitioner/worker to the Asst. Engineer, E10-B, Exchange, Installation, Hanumakonda the termination of his service from 1-2-93 would not amount to retrenchment as it is a case of discharge simplicitor. The petitioner/worker was engaged as casual labour for attending to works of purely temporary in nature either by the respondent or by the Asst. Engineer, E10-B, Exchange, Installation, Hanumakonda. Hence, on a consideration of the oral and of documentary evidence placed on records and the written arguments submitted by the learned counsel, I am of the view that the petitioner on whom heavy burden lies failed to establish that his termination from service amount to retrenchment as defined in Sec. 2(oo) of the I.D. Act. I am on the other hand of the view, his termination from service would only amount to discharge simplicitor, as such the oral order of the respondent, terminating service of the petitioner without paying one months wages or retrenchment compensation would not amount to retrenchment. Further there is no violation of the provisions of Sec. 25-H as there is no evidence on record to show that the respondent/employer has engaged any other worker after terminating the service of the petitioner/worker.

(16) Hence, I conclude that as the discharge of the petitioner from service is not actuated by any motive i.e. victimisation or unfair labour practice, his termination does not fall within the ambit of Sec. 2(oo) of the Act defining in the expression 'retrenchment' and as such the respondent need not comply the statutory requirements of Sec. 25-F. Hence, I hold that the action of the respondent in terminating the service of the petitioner Md. Sarwar from service w.e.f. 31-5-89 or termination of service of the petitioner by the Asst. Engineer, E10-B, Phones, Exchange Installation, Hanumakonda from 6-2-93 is justified. The point is thus decided in favour of the respondent and against the petitioner.

(17) Point No. 3.—The Asstt. Sub Divisional Engineer, Telephones, Telecommunications Dept., Hanumakonda is shown as sole respondent in this reference. But according to the petitioner, he has worked not only under the respondent but also on his direction with the Sub Divisional Officer, E10-B, Phones, Installation, Hanumakonda from 16-10-91 to 6-2-93. Thus the Sub Divisional Engineer, E10-B, Telecommunications Dept., Hanumakonda is a necessary party as in case. If the reference is answered in favour of the petitioner, he has to be reinstated by Sub-Divisional Engineer, E10-B, Telecommunication Dept., Hanumakonda. Thus, according to the learned counsel of the respondent, there is mis-joinder of cause of actions, mis-joinder of party and non-joinder of necessary parties and for this reason also, the reference has to be answered against the petitioner which was ever repelled by the learned counsel for the petitioner.

(18) On going through the material on record, I find some force in the contention of the learned counsel for the respondent as the service of the petitioner was terminated by the respondent as earlier in the year 1989 while his services were terminated by the Sub Divisional Engineer, E10-B, Exchange, Hanumakonda in the year 1993. The petitioner made representation to Asst. Commissioner of Labour after termination of service by the Sub Divisional Engineer, E10-B. I therefore, feel that the Asst. Sub Divisional Engineer, E10-B, Exchange, Hanumakonda is not only a proper party but also necessary party as serious allegation of payment of less wages and payment in the name of fictitious person was made against him. I am of the view that showing the Sub-Divisional Officer, Phones, Telecommunication Dept., Hanumakonda as sole respondent/employer amounts to mis-joinder of parties. The reference also suffers with mis-joinder of cause of actions. The point is hence answered in favour of respondent.

(19) Point No. 4 : This point relates to relief to which the petitioner is entitled. In view of my findings of points 2 and 3 the petitioner is not entitled for any of the reliefs in this reference.

(20) In the result, an award is passed holding that the action of the respondent in terminating the services of the petitioner Md. Sarwar from 31-5-89 or the action of Asst. Sub-Divisional Engineer, E10-B, Telephones, Installation from 6-2-93 is justified as such the petitioner is not entitled for any of the reliefs under this reference. Thus, the reference is answered directing the parties to bear their own costs.

Dictated to the Sr. Stenographer, transcribed by her, corrected by me and given under my hand and the seal of this Tribunal, this the 30th day of June, 1998.

C. V. RAGHAVIAH, Industrial Tribunal-I

Appendix of Evidence

Witness examined for
the petitioner :

Witness examined for
the respondent :

WW1 : Md. Sarwar

MW1 : B. Lingaiah

REFERENCE NO. 58/97

WW2 : Md. Unas

PRESENT :

Shri R. S. Mishra—Presiding Officer.

Documents marked for the petitioner/workman :

PARTIES :

Ex. W1 : Working days particulars of WW1.

Employers in relation to the management of North Searsole Colliery of M/s. E. C. Ltd.,

Ex. W2 : Complaint made to AL(O)-II, Hyderabad.

Ex. W3 : Parawise remarks submitted by the management.

And

Ex. W4 : Rejoinder to Ex. W3 filed by the petitioner.

Their Workmen.

Ex. W5 : Minutes of conciliation.

APPEARANCES :

Ex. W6 : Failure report dated 27-7-1995 submitted by ALC(C), Hyd. Documents marked for the respondent/management.

For the Employer—None.

For the Workmen—None.

INDUSTRY : Coal. STATE : West Bengal.

-Nil-

Dated, the 27th July, 1998

Sd/-

AWARD

Industrial Tribunal-I, Hyd.

नई दिल्ली, 10 अगस्त, 1998

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/421/96-IR(C.II) dated 29-8-1997.

का.ग्रा. 1723—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबंधन के संबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-89 प्राप्त हुआ था।

“Whether the action of the management of North Searsole Colliery under Kunustoria Area of ECL in dismissing Shri Gopal Bisai, U. G. Loader, from service w.e.f. 1-6-1994 is legal and justified? If not, to what relief is the workman entitled and from which date?”

[सं. एल-22012/421/96/आई आर (सी-II)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 10th August, 1998

2. The union neither appears nor submits written statement in spite of several adjournments. Apparently not interested with the dispute any more.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 11 अगस्त, 1998

S.O. 1723.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/S. E. C. Ltd. and their workman, which was received by the Central Government on the 7-8-1998.

का.ग्रा. 1724—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै कन्स्टेनसे इन्टरनेशनल लि. के प्रबंधन के संबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-98 को प्राप्त हुआ था।

[No. L-22012/421/96-IR(C-II)]

B. M. DAVID, Desk Officer

ANNEXURE

[सं. एल-32012/2/97-आई आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

New Delhi, the 11th August, 1998

S.O. 1724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Containerway International Ltd., and their workman, which was received by the Central Government on the 11-8-98.

[No. L-32012/2/97-IR (Misc.)]

B.M. DAVID, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 14 of 1998

PARTIES :

Employers in relation to the management of M/s. Containerway International Ltd.

AND

Their workmen.

PRESENT :

Mr. Justice A. K. Chakravarty,
Presiding Officer.

APPEARANCE :

On behalf of Management : None.

On behalf of Workmen : None.

STATE : West Bengal. INDUSTRY : Port.

AWARD

By Order No. L-32012/2/97-IR(M) dated 16-4-1998 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of M/s. Containerway International Limited in terminating the services of Shri T.N. Tewari w.e.f. 7-2-96 is justified ? If not to what relief the workman is entitled ?”

2. When the case is called out today, none appears from either side. The union has failed to take any step on the last two occasions in spite of direction upon it to file written statement etc. No one on behalf of the union ever appeared even

though adjournments were allowed by the Tribunal. Notice upon the employer mentioned in Item No. 2(a) has been served but the service return upon the other employer has not been returned back yet. It is clear that the union is no longer interested in conducting the case.

3. Since the union is not interested in conducting the case by not taking any step, this Tribunal has no other alternative but to pass a “No Dispute” Award in this reference.

4. A “No Dispute” Award is accordingly passed and the reference is disposed of.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer
Dated, Calcutta,

The 28th July, 1998.

नई दिल्ली, 12 अगस्त, 1998

का.आ. 1725 - केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि करेंसी नोट प्रेस नासिक रोड में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 25 के अन्तर्गत निर्दिष्ट किया गया है उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1997 का 14) की धारा 2 के खंड (इ) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/3/91-ओ.स. (नी. वि.)]

एच. सी. गुप्ता, अवसर सचिव

New Delhi, the 12th August, 1998

S.O. 1725.—Whereas the Central Government is satisfied that the public interest requires that the Currency Note Press, Nasik Road which is covered by item 25 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/3/91-IR(PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 12 अगस्त, 1998

नई दिल्ली, 12 अगस्त, 1998

का.आ. 1726.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 423 दिनांक 10 फरवरी, 1998 द्वारा नाभकीय ईंधन और संघटक, भारी पानी और संबंधित रसायन तथा आणविक ऊर्जा को उक्त अधिनियम के प्रयोजनों के लिए 26 फरवरी, 1998 से छः मास की कालावधि के लिए लोकहित उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ावा जाना अपेक्षित है,

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (vii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 26 अगस्त, 1998 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/3/97-आई.आर. (पी. एल.)]

एच. सी. गुप्ता, अवसर सचिव

New Delhi, the 12th August, 1998

S.O. 1726.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 423 dated the 10th February, 1998 Industrial establishments manufacturing or producing Nuclear Fuel and Components, Heavy Water and Allied Chemicals and Atomic Energy to be a public utility service for the purpose of the said Act, for a period of six months from the 26th February, 1998;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six month from the 26th August, 1998.

[No. S-11017/3/97-IR(PL)]

H. C. GUPTA, Under Secy.

का.आ. 1727.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 422 दिनांक 10 फरवरी, 1998 द्वारा सिक्कुरिटी पेपर मिल, होशंगाबाद को उक्त अधिनियम के प्रयोजनों के लिए 10 मार्च, 1998 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 10 सितम्बर, 1998 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/16/97-आई.आर. (पी. एल.)]

एच. सी. गुप्ता, अवसर सचिव

New Delhi, the 12th August, 1998

S.O. 1727.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 422 dated the 10th February, 1998 Security Paper Mill, Hoshangabad to be a public utility service for the purpose of the said Act, for a period of six months from the 10th March, 1998;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 10th September, 1998.

[No. S-11017/16/97-IR(PL)]

H. C. GUPTA, Under Secy.

आदेश

नई दिल्ली, 18 अगस्त, 1998

का.ग्रा.1728.—भारत सरकार के तत्कालीन श्रम एवं रोजगार मंत्रालय की तारीख 16 जनवरी, 1960 की अधिसूचना संख्या का.ग्रा. 172 द्वारा गठित औद्योगिक अधिकरण संख्या -1 मुम्बई के पीठासीन अधिकारी के कार्यालय में एक पद रिक्त हुआ है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 के उपबंधों के अनुसरण में केन्द्रीय सरकार श्री सी.वी. गोवर्धन को 23 जुलाई, 1998 से उक्त अधिकरण में पीठासीन अधिकारी नियुक्त करती है।

[सं. ए.-11016/7/94-सी एन एस -II]

पी. पी. मित्रा, निदेशक

ORDER

New Delhi, the 18th August, 1998

S.O. 1728.—Whereas a vacancy has occurred in the Office of the Presiding Officer of the Industrial Tribunal No. 1 Mumbai, constituted by the notification of the Government of India in the then Ministry of Labour and Employment Notification No. S.O.172 dated the 16th January, 1960.

Now, therefore, in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri C. V. Goverdhan as Presiding Officer of the said Tribunal with effect from 23rd July, 1998.

[F. No. A-11016/7/94-CLS-II]

P. P. MITRA., Director

आदेश

नई दिल्ली, 18 अगस्त, 1998

का.ग्रा.1729.—भारत सरकार के तत्कालीन श्रम एवं रोजगार मंत्रालय की तारीख 22 मई, 1965 की अधिसूचना संख्या का.ग्रा. 1698 द्वारा गठित श्रम न्यायालय संख्या I, मुम्बई के पीठासीन अधिकारी के कार्यालय में एक पद रिक्त हुआ है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 के उपबंधों के अनुसरण में केन्द्रीय सरकार श्री सी.वी. गोवर्धन को 23 जुलाई, 1998 से उक्त श्रम न्यायालय में पीठासीन अधिकारी नियुक्त करती है।

[सं. ए.-11016/7/94-सी एन एस-II]

पी. पी. मित्रा, निदेशक

ORDER

New Delhi, the 18th August, 1998

S.O. 1729.—Whereas a vacancy has occurred in the Office of the Presiding Officer of the Labour Court No. 1 Mumbai constituted by the Notification of the Government of India in the then Ministry of Labour and Employment Notification No. S.O. 1698 dated the 22nd May, 1965.

Now, therefore, in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri C.V. Govardhan as Presiding Officer of the said Labour Court with effect from 23rd July, 1998.

[F. No. A-11016/7/94-CLS-II]

P. P. MITRA, Director